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**SENATE BILL 5758**

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**State of Washington****53rd Legislature****1993 Regular Session****By** Senators Prentice and Bauer

Read first time 02/11/93. Referred to Committee on Labor &amp; Commerce.

1       AN ACT Relating to the department of labor and industries; amending  
2 RCW 18.27.010, 18.27.040, and 18.27.060; adding a new section to  
3 chapter 43.22 RCW; adding new sections to chapter 18.27 RCW; repealing  
4 RCW 18.27.030; prescribing penalties; providing an effective date; and  
5 declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7       **Sec. 1.** RCW 18.27.010 and 1973 1st ex.s. c 153 s 1 are each  
8 amended to read as follows:

9       ((A)) Unless the context clearly requires otherwise, the  
10 definitions in this section apply throughout this chapter.

11       (1) "Board" means the contractor's registration board.

12       (2) "Contractor" ((as used in this chapter is)) means any person,  
13 firm, or corporation who or which, in the pursuit of an independent  
14 business undertakes to, or offers to undertake, or submits a bid to,  
15 construct, alter, repair, add to, subtract from, improve, move, wreck,  
16 or demolish, for another or with intent to sell, any building, highway,  
17 road, railroad, excavation, or other structure, project, development,  
18 or improvement attached to real estate or to do any part thereof  
19 including the installation of carpeting or other floor covering, the

1 erection of scaffolding or other structures, or works in connection  
2 therewith, or who installs or repairs roofing or siding((; or, who, to  
3 do similar work upon his own property, employs members of more than one  
4 trade upon a single job or project or under a single building permit  
5 except as otherwise provided herein)). It is prima facie evidence that  
6 there was an intent of offering the structure for sale if the person  
7 who constructed the structure or arranged to have the structure  
8 constructed does not occupy the structure after its completion for its  
9 intended use. A "general contractor" is a contractor whose business  
10 operations require the use of more than two unrelated building trades  
11 or crafts whose work the contractor shall superintend or do in whole or  
12 in part; the term "general contractor" shall not include an individual  
13 who does all work personally without employees or other "specialty  
14 contractors" as defined ((herein)) in this section. The terms "general  
15 contractor" and "builder" are synonymous. A "specialty contractor" is  
16 a contractor whose operations as such do not fall within the  
17 ((foregoing)) definition of "general contractor".

18       (3) "Department" ((as used in this chapter)) means the department  
19 of labor and industries.

20       (4) "Director" ((as used in this chapter)) means the director of  
21 ((the department of)) labor and industries.

22       NEW SECTION. **Sec. 2.** There is hereby created a contractor's  
23 registration board consisting of nine members to be appointed by the  
24 governor subject to confirmation by the senate. The members of the  
25 contractor's registration board shall be selected and appointed as  
26 follows: One member shall be selected from a list of three names  
27 submitted by a state-wide organization of contractors who are primarily  
28 engaged in residential construction and remodeling; three shall be  
29 licensed contractors; one shall be selected from a list of three names  
30 submitted by a state-wide labor organization representing workers in  
31 the building trades; two shall be certified building inspectors; one  
32 shall be an employee, officer, or representative of a corporation or  
33 firm engaged in the business of manufacturing or distributing  
34 construction materials, equipment, or devices; and one shall be a  
35 currently licensed structural engineer with the state of Washington.  
36 The director, or director's designee, shall serve ex officio.

1       The original board shall be appointed on July 1, 1994, with three  
2 members being appointed for three years, three members being appointed  
3 for two years, and three members being appointed for one year.

4       Thereafter, the governor shall appoint or reappoint board members  
5 for terms of three years. The governor shall also fill vacancies  
6 caused by death, resignation, or otherwise for the unexpired terms of  
7 such members by appointing their successors from the same group or  
8 constituency. The same procedure shall be followed in making such  
9 subsequent appointments as is provided for the original appointments.  
10 The board, at this first meeting shall elect one of its members to  
11 serve as chair. Meetings of the board shall be held monthly. Staff  
12 services required by the board shall be provided by the department.

13       Each member of the board shall receive compensation in accordance  
14 with RCW 43.03.240 and shall be reimbursed for travel expenses in  
15 accordance with RCW 43.03.050 and 43.03.060 which shall be paid out of  
16 the contractors registration fund, upon vouchers approved by the  
17 director.

18       NEW SECTION. **Sec. 3.** The board shall review complaints concerning  
19 registered contractors pursuant to the procedures set forth in sections  
20 8 through 11 of this act. The board, after reviewing a complaint  
21 concerning the registered contractor, may suspend or revoke the  
22 contractor's certificate of registration for such a period as the board  
23 determines.

24       NEW SECTION. **Sec. 4.** (1) A person who wishes to register as a  
25 contractor shall submit an application upon a form prescribed by the  
26 board. The application shall include, but not be limited to, at least  
27 the following information regarding the applicant:

28           (a) Classification of registration being sought.

29           (b) A list of unsatisfied judgments resulting from bond claims and  
30 litigation involving the applicant or its principals within the prior  
31 two years.

32           (c) Social security number.

33           (d) Workers' compensation insurance account number if help is hired  
34 or traded.

35           (e) Unemployment insurance account number if help is hired.

36           (f) State withholding tax account number if help is hired.

1       (g) Federal employer identification number, if help is hired or if  
2 self-employed and participating in a retirement plan.  
3       (h) The name and address of:  
4           (i) Each partner or venturer, if the applicant is a partnership or  
5 joint venture.  
6           (ii) The owner, if the applicant is an individual proprietorship.  
7           (iii) The corporate officers, if the applicant is a corporation.  
8       (2) An applicant shall conform to the information provided by the  
9 applicant on the application and to the terms of the application.

10      NEW SECTION. **Sec. 5.** It is the duty of a contractor to notify the  
11 board of any change of address while registered and for one year  
12 following the date the contractor's registration expires or otherwise  
13 becomes inactive. The contractor shall so notify the board within ten  
14 days of the date upon which the change of address occurs. Any proposed  
15 or final order or notice of hearing directed by the board to the last  
16 known address of record shall be considered delivered when deposited in  
17 the United States mail and sent registered or certified or post office  
18 receipt secured. Any other communication directed by the board to the  
19 last known address of record shall be considered delivered when  
20 deposited in the United States mail, first class postage paid.

21      **Sec. 6.** RCW 18.27.040 and 1988 c 139 s 1 are each amended to read  
22 as follows:

23      (1) ((Each applicant shall, at the time of applying for or renewing  
24 a certificate of registration, file with the department a surety bond  
25 issued by a surety insurer who meets the requirements of chapter 48.28  
26 RCW in a form acceptable to the department running to the state of  
27 Washington if a general contractor, in the sum of six thousand dollars;  
28 if a specialty contractor, in the sum of four thousand dollars,  
29 conditioned that the applicant will pay all persons performing labor,  
30 including employee benefits, for the contractor, will pay all taxes and  
31 contributions due to the state of Washington, and will pay all persons  
32 furnishing labor or material or renting or supplying equipment to the  
33 contractor and will pay all amounts that may be adjudged against the  
34 contractor by reason of negligent or improper work or breach of  
35 contract in the conduct of the contracting business. A change in the  
36 name of a business or a change in the type of business entity shall not  
37 impair a bond for the purposes of this section so long as one of the

1 original applicants for such bond maintains partial ownership in the  
2 business covered by the bond.

3 (2) Any contractor registered as of the effective date of this 1983  
4 act who maintains such registration in accordance with this chapter  
5 shall be in compliance with this chapter until the next annual renewal  
6 of the contractor's certificate of registration. At that time, the  
7 contractor shall provide a bond, cash deposit, or other security  
8 deposit as required by this chapter and comply with all of the other  
9 provisions of this chapter before the department shall renew the  
10 contractor's certificate of registration.

11 (3)) Any person, firm, or corporation having a claim against the  
12 contractor for any of the items referred to in this section may bring  
13 suit upon such bond or deposit in the superior court of the county in  
14 which the work was done or of any county in which jurisdiction of the  
15 contractor may be had. The surety issuing the bond shall be named as  
16 a party to any suit upon the bond. Action upon such bond or deposit  
17 shall be commenced by filing the summons and complaint with the clerk  
18 of the appropriate superior court within one year from the date of  
19 expiration of the certificate of registration in force at the time the  
20 claimed labor was performed and benefits accrued, taxes and  
21 contributions owing the state of Washington became due, materials and  
22 equipment were furnished, or the claimed contract work was completed.  
23 Service of process in an action against the contractor, the  
24 contractor's bond, or the deposit shall be exclusively by service upon  
25 the department. Three copies of the summons and complaint and a fee of  
26 ten dollars to cover the handling costs shall be served by registered  
27 or certified mail upon the department at the time suit is started and  
28 the department shall maintain a record, available for public  
29 inspection, of all suits so commenced. Service is not complete until  
30 the department receives the ten-dollar fee and three copies of the  
31 summons and complaint. Such service shall constitute service on the  
32 registrant and the surety for suit upon the bond or deposit and the  
33 department shall transmit the summons and complaint or a copy thereof  
34 to the registrant at the address listed in his or her application and  
35 to the surety within forty-eight hours after it shall have been  
36 received.

37 ((+4)) (2) The surety upon the bond shall not be liable in an  
38 aggregate amount in excess of the amount named in the bond nor for any  
39 monetary penalty assessed pursuant to this chapter for an infraction.

1 The liability of the surety shall not cumulate where the bond has been  
2 renewed, continued, reinstated, reissued or otherwise extended. The  
3 surety upon the bond may, upon notice to the department and the  
4 parties, tender to the clerk of the court having jurisdiction of the  
5 action an amount equal to the claims thereunder or the amount of the  
6 bond less the amount of judgments, if any, previously satisfied  
7 therefrom and to the extent of such tender the surety upon the bond  
8 shall be exonerated but if the actions commenced and pending at any one  
9 time exceed the amount of the bond then unimpaired, claims shall be  
10 satisfied from the bond in the following order:

11 (a) Labor, including employee benefits;

12 (b) Claims for breach of contract by a party to the construction  
13 contract;

14 (c) Material and equipment;

15 (d) Taxes and contributions due the state of Washington;

16 (e) Any court costs, interest, and attorney's fees plaintiff may be  
17 entitled to recover.

18 ((+5)) In the event that any final judgment shall impair the  
19 liability of the surety upon the bond so furnished that there shall not  
20 be in effect a bond undertaking in the full amount prescribed in this  
21 section, the department shall suspend the registration of such  
22 contractor until the bond liability in the required amount unimpaired  
23 by unsatisfied judgment claims shall have been furnished. If such bond  
24 becomes fully impaired, a new bond must be furnished at the increased  
25 rates prescribed by this section as now or hereafter amended.

26 (+6)) (3) In lieu of the surety bond required by this section the  
27 contractor may file with the department a deposit consisting of cash or  
28 other security acceptable to the department.

29 ((+7)) (4) Any person having filed and served a summons and  
30 complaint as required by this section having an unsatisfied final  
31 judgment against the registrant for any items referred to in this  
32 section may execute upon the security held by the department by serving  
33 a certified copy of the unsatisfied final judgment by registered or  
34 certified mail upon the department within one year of the date of entry  
35 of such judgment. Upon the receipt of service of such certified copy  
36 the department shall pay or order paid from the deposit, through the  
37 registry of the superior court which rendered judgment, towards the  
38 amount of the unsatisfied judgment. The priority of payment by the  
39 department shall be the order of receipt by the department, but the

1 department shall have no liability for payment in excess of the amount  
2 of the deposit.

3 ((+8)) (5) The director may promulgate rules necessary for the  
4 proper administration of the security.

5       **NEW SECTION.**   **Sec. 7.** (1) A person who wishes to register as a  
6 contractor or renew a certificate of registration shall file with the  
7 board a surety bond with one or more corporate sureties authorized to  
8 do business in this state in the amount set forth in subsections (2)  
9 and (3) of this section, conditioned that the applicant, with regard to  
10 work subject to this chapter, will pay claims ordered paid by the board  
11 under section 10 of this act. Bonds filed under this subsection shall  
12 remain in effect for at least one year or until depleted by claims paid  
13 under section 10 of this act, unless the surety sooner cancels the  
14 bond. At the discretion of the surety the bond may be continued for an  
15 additional period by continuation certificate. The aggregate liability  
16 of the surety under the bond for claims against the bond shall not  
17 exceed the penal sum of the bond no matter how many years the bond is  
18 in force. No extension by continuation certificate, reinstatement,  
19 reissue, or renewal of the bond shall increase the liability of the  
20 surety.

21       (2) A general contractor shall obtain a surety bond in the amount  
22 of six thousand dollars.

23       (3) A specialty contractor shall obtain a surety bond in the amount  
24 of four thousand dollars.

25       (4) If the amount the registrant must pay against the bond under  
26 this section exceeds the amount of the bond, the board shall suspend  
27 the certificate of the registrant until the amount owed is paid. The  
28 board, as a condition of ending the suspension, may require the  
29 registrant to file a bond of an amount up to five times as much as the  
30 amount required of a registrant under subsections (2) and (3) of this  
31 section.

32       (5) An applicant for registration or renewal, who has an  
33 outstanding final judgment by a court against the applicant that a bond  
34 under this section would have been subject to, shall not be permitted  
35 to register or renew a registration until the judgment is satisfied.  
36 The board, as a condition of registering the applicant, may require the  
37 applicant to file a bond of an amount up to five times as much as the

1 amount required of an applicant under subsections (2) and (3) of this  
2 section.

3 (6) The bond required under this section is for the exclusive  
4 purpose of payment of final orders of the board in accordance with this  
5 chapter.

6 (7) Upon determination of a claim under section 10 of this act  
7 against a contractor who holds a bond required under this section, the  
8 board shall notify the surety on the bond of the final order in a  
9 manner determined by the board by rule. The notification shall include  
10 a list of all claims upon which a final order has been issued.

11 (8) A surety shall be obligated to pay amounts ordered by the board  
12 or appeal to a court of competent jurisdiction within thirty days of  
13 the date of the board's order. A surety shall not be liable to an  
14 assured for a good faith decision not to contest the board's order.

15 (9) No suit or action may be commenced against a surety on a bond  
16 required under this section until thirty days after the date that the  
17 surety is notified by the board under section 10 of this act that  
18 payment is due on the claim.

19 (10) In any action against a surety on a bond under this section  
20 that is based on the failure of the surety to pay a claim or on the  
21 denial of a claim by the surety, the court may award:

22 (a) Costs;

23 (b) Reasonable attorneys' fees to the prevailing party as part of  
24 the costs; and

25 (c) If the surety is ordered to pay a claim on the bond that the  
26 surety arbitrarily and capriciously refused to pay upon order of the  
27 board, twice the amount of damages against the surety as ordered by the  
28 board.

29 NEW SECTION. **Sec. 8.** (1) The board may revoke, suspend, or refuse  
30 to issue or reissue a certificate of registration and the board may  
31 assess a civil penalty as provided in section 17 of this act if it  
32 determines after notice and opportunity for hearing that:

33 (a) The registrant or applicant has violated section 4 of this act.

34 (b) The registrant or applicant has failed to pay in full any final  
35 judgment on claims adjudged by the board or by a court of competent  
36 jurisdiction referred to in section 7 of this act.

37 (c) The insurance required by RCW 18.27.050 is not currently in  
38 effect.

1       (d) The surety bond required by section 7 of this act is not  
2 currently in effect.

3       (e) The registrant or applicant has engaged in conduct as a  
4 contractor that is dishonest or fraudulent that the board finds  
5 injurious to the welfare of the public.

6       (f) The registrant has violated a rule or order of the board.

7       (g) The registrant has knowingly assisted an unregistered person to  
8 act in violation of this chapter.

9       (h) A lien was filed on a structure because the registrant or  
10 applicant wrongfully failed to perform a contractual duty to pay money  
11 to the person claiming the lien.

12      (i) The registrant has knowingly provided false information to the  
13 board.

14      (j) The registrant has worked without a construction permit where  
15 such permit is required and such work resulted in a claim filed with  
16 the board. For purposes of this subsection (1)(j), "construction  
17 permit" includes a building permit, electrical permit, mechanical  
18 permit, or plumbing permit.

19      (2) In addition to all other remedies, when it appears to the board  
20 that a person has engaged in, or is engaging in, any act, practice, or  
21 transaction which violates the provisions of this chapter, the board  
22 may direct the attorney general or the prosecuting attorney of the  
23 county in which the act, practice, or transaction occurs, to apply to  
24 the court for an injunction restraining the person from violating the  
25 provisions of this chapter.

26      (3) Before any contractor's certificate of registration is  
27 suspended or revoked, the holder thereof shall be given written notice  
28 of the department's intention to do so, delivered by registered mail,  
29 return receipt requested, to the holder's last known address. The  
30 notice shall enumerate the allegations against such holder, and shall  
31 give the holder the opportunity to request a hearing before the board.  
32 At such hearing, the department and the holder shall have opportunity  
33 to produce witnesses and give testimony. The hearing shall be  
34 conducted in accordance with the provisions of chapter 34.05 RCW. The  
35 board shall render its decision based upon the testimony and evidence  
36 presented, and shall notify the parties immediately upon reaching its  
37 decision. A majority of the entire membership of the board shall be  
38 necessary to render a decision on a suspension or revocation.

1        **NEW SECTION.**    **Sec. 9.** The board may suspend the registration of or  
2 refuse to register any corporation, partnership, or individual if any  
3 individual who is an owner, shareholder, or officer of the business is  
4 or was the owner or officer of a business that owes any amount pursuant  
5 to a final order of the board.

6        **NEW SECTION.**    **Sec. 10.** The board shall only accept and make  
7 determinations for damages against contractors registered under this  
8 chapter. If upon final determination by the board a contractor fails  
9 to pay a claim determined against the contractor by the board, the  
10 board shall notify the surety that payment is due from the bond  
11 required under section 7 of this act.

12      The board shall only accept and make determinations of the  
13 following types of claims:

14      (1) Claims against a contractor by the owner of a structure or  
15 other real property for the following in performing any work subject to  
16 this chapter:

- 17        (a) Negligent work;  
18        (b) Improper work; or  
19        (c) Breach of contract.

20      (2) Claims against a contractor by the owner of a structure or  
21 other real property to discharge or recoup funds expended in  
22 discharging a lien. The board may reduce any amount adjudged by the  
23 board under this section by any amount the claimant owes the  
24 contractor. The board shall only determine claims under this section  
25 if:

26        (a) The owner has paid the contractor for that contractor's work  
27 subject to this chapter; and

28        (b) A lien is filed against the property of the owner because the  
29 contractor failed to pay the person claiming the lien for that person's  
30 contribution toward completion of the improvement.

31      (3) Claims against a registered subcontractor by a registered  
32 contractor for the following in performing any work subject to this  
33 chapter:

- 34        (a) Negligent work;  
35        (b) Improper work; or  
36        (c) Breach of contract.

37      (4) Claims by persons furnishing labor to a contractor.

1       (5) Claims, as limited by rule of the board, by persons furnishing  
2 material or renting or supplying equipment to a contractor. The board  
3 shall not accept claims under this section that total less than one  
4 hundred fifty dollars.

5       NEW SECTION.   **Sec. 11.** (1) Any person having a claim against a  
6 contractor of the type listed in section 10 of this act may file with  
7 the board a statement of the claim in such form as the board  
8 prescribes.

9       (2) The board may refuse to accept or refuse at any time to  
10 continue processing a claim if:

11       (a) The same facts and issues involved in the claim have been  
12 submitted to a court of competent jurisdiction for determination or  
13 have been submitted to any other entity authorized by law or the  
14 parties to effect a resolution and settlement;

15       (b) The claimant does not permit the contractor against whom the  
16 claim is filed to be present at any inspection made by the board;

17       (c) The board determines that the conduct of the claimant has  
18 prevented or substantially prevented the contractor who is otherwise  
19 able, from complying with the recommendations of the board. However,  
20 the board may refuse to accept or further process a claim under this  
21 subsection (2)(c) only if the contractor was registered at the time the  
22 work was first performed and is registered at the time the board makes  
23 its recommendations; or

24       (d) The board determines that the nature or complexity of the claim  
25 is such that a court is the appropriate forum for the adjudication of  
26 the claim.

27       (3) The board shall not process a claim unless it is filed in a  
28 timely manner as follows:

29       (a) If the owner of a new structure files the claim, the board must  
30 receive the claim not later than one year after the date the structure  
31 was first occupied for the purpose for which it was built or two years  
32 after completion, whichever comes first.

33       (b) If the owner of an existing structure files the claim, the  
34 board must receive the claim not later than one year after the date the  
35 work was substantially completed.

36       (c) Regardless of whether the claim involves a new or existing  
37 structure, if the owner files the claim because the contractor failed

1 to begin the work, the board must receive the claim not later than one  
2 year after the date the parties entered into the contract.

3 (d) Regardless of whether the claim involves a new or existing  
4 structure, if the owner files the claim because the contractor failed  
5 to substantially complete the work, the board must receive the claim  
6 not later than one year after the date the contractor ceased work on  
7 the structure.

8 (e) If a registered contractor files the claim against a registered  
9 contractor who performed work as a subcontractor, the board must  
10 receive the claim not later than one year after the date the structure  
11 was first occupied or two years after completion, whichever comes  
12 first.

13 (f) If a registered contractor files the claim against a registered  
14 contractor who performed work as a subcontractor, because the  
15 subcontractor failed to substantially complete the work, the board must  
16 receive the claim not later than one year after the date the  
17 subcontractor ceased to work on the structure.

18 (g) If a material or equipment supplier, an employee, or a  
19 registered subcontractor files the claim, the board must receive the  
20 claim not later than one year after the date payment from the  
21 registrant became due.

22 (4) Upon acceptance of the statement of claim, the board shall give  
23 notice to the contractor against whom the claim is made and shall  
24 initiate proceedings to determine the validity of the claim. If, after  
25 investigation, the board determines that a violation of this chapter or  
26 of any rule adopted under this chapter has occurred, the board shall  
27 recommend to the registrant such action as the board considers  
28 appropriate to compensate the claimant for any damages incurred as the  
29 result of the violation. If the contractor complies with the  
30 recommendation, the board shall give that fact due consideration in any  
31 subsequent disciplinary proceeding brought by the board.

32 (5) In order to have access to the bond required under this  
33 section, the plaintiff in an action against a general contractor or  
34 specialty contractor must deliver a copy of the complaint to the board  
35 and to the surety on the bond by certified mail, return receipt  
36 requested. The surety shall not be joined as a party to the action,  
37 but shall have the absolute right to intervene in the action. If  
38 notice is so given, the surety shall be bound by any judgment entered  
39 in the action, except as limited by this section. The date the board

1 receives a copy of the complaint shall be the date the board uses to  
2 establish the priority of the claim.

3 (6) If a court issues a judgment against a general contractor or a  
4 specialty contractor, the plaintiff shall deliver a certified copy of  
5 the judgment to the board and to the surety within thirty days of the  
6 date of entry of the judgment in order to retain a claim against the  
7 bond. Execution on the judgment against the bond shall only be in  
8 accordance with this section.

9 (7) Upon receipt of a timely filed copy of the judgment, the board  
10 shall issue a proposed order in the amount of the judgment, together  
11 with any court costs, interest, and attorneys' fees awarded by the  
12 court. The board's determination of the claim shall be limited only to  
13 a determination of whether the claim comes within the jurisdiction of  
14 the board.

15 (8) With the prior agreement of the claimant and registrant, the  
16 board may resolve the claim through binding arbitration under rules  
17 adopted by the board. The board may also use the arbitration procedure  
18 to resolve a dispute between a person bringing a claim and any other  
19 contractor who agrees to follow the rules of the board.

20 **NEW SECTION.** **Sec. 12.** (1) If a final board order is not paid by  
21 the registrant, the board shall notify the surety on the bond.

22 (2) An order of the board that determines a claim under sections 10  
23 through 13 of this act that becomes final by operation of law or on  
24 appeal and remains unpaid twenty days after the period of time allowed  
25 in this section has expired, shall constitute a judgment in favor of  
26 the claimant against the person and may be recorded with the county  
27 auditor in any county of this state.

28 (3) Upon receipt, the auditor shall record the order in the county  
29 auditor lien record. After recording, the order is equivalent to a  
30 judgment and is controlled by statutes relating to judgments.

31 (4) Determinations by the board or judgments against the surety  
32 bond of a contractor shall be satisfied in the following priority in  
33 any ninety-day period. A ninety-day period shall begin on the date the  
34 first claim is filed with the board. A subsequent ninety-day period  
35 shall begin on the date the first claim is filed with the board after  
36 the close of each preceding ninety-day period. Within a ninety-day  
37 period:

1       (a) Board determinations and judgments as a result of claims  
2 against a contractor by the owner shall have payment priority to the  
3 full extent of the bond over all other types of claims.

4       (b) If the claims described in (a) of this subsection do not  
5 exhaust the bond, then amounts due as a result of all other types of  
6 claims filed within that ninety-day period may be satisfied from the  
7 bond in the following order:

8           (i) Labor, including employee benefits.

9           (ii) Claims for breach of contract by a party to the construction  
10 contract.

11          (iii) Any court costs, interest, and attorneys' fees the plaintiff  
12 may be entitled to recover. The total cost paid from any one bond for  
13 court costs, interest, and attorneys' fees shall not exceed two  
14 thousand dollars.

15       (c) If the total claims filed with the board against a general  
16 contractor or a specialty contractor within ninety days after the board  
17 receives notice of the first claim against the contractor exceed the  
18 amount of the bond available for such claims, the bond shall be  
19 apportioned as the board determines, subject to the priorities  
20 established under this section.

21       (d) If the total amounts due as a result of claims filed with the  
22 board within ninety days after the first claim is filed do not exceed  
23 the amount of the bond available for such claims, all amounts due as a  
24 result of claims filed within the ninety-day period shall have priority  
25 over all claims subsequently filed until the amount of the bond  
26 available for such claims is exhausted, but not later than one year  
27 after:

28           (i) The date of expiration of the certificate of registration in  
29 force at the time the work was completed or abandoned; or

30           (ii) Cancellation by the surety of the certificate of registration  
31 in force at the time the work was completed or abandoned;  
32 whichever occurs first.

33       NEW SECTION.   **Sec. 13.** A corporation that is registered or  
34 required to be registered as a contractor under this chapter and that  
35 is a party in any proceeding before the board or any representative  
36 thereof may appear or be represented in the proceeding by an officer of  
37 the corporation who is not a member of the Washington state bar.

1       **Sec. 14.**   RCW 18.27.060 and 1983 1st ex.s. c 2 s 19 are each  
2 amended to read as follows:

3           (1) A certificate of registration shall be valid for one year and  
4 shall be renewed on or before the expiration date. The department  
5 shall issue to the applicant a certificate of registration upon  
6 compliance with the registration requirements of this chapter. On and  
7 after July 1, 1995, such registration requirements shall include  
8 submission of evidence of successful completion of the education  
9 requirements in section 15 of this act.

10         (2) If the department approves an application, it shall issue a  
11 certificate of registration to the applicant. The certificate shall be  
12 valid for:

13           (a) One year;

14           (b) Until the bond expires; or

15           (c) Until the insurance expires, whichever comes first. The  
16 department shall place the expiration date on the certificate.

17         (3) A contractor may supply a short-term bond or insurance policy  
18 to bring its registration period to the full one year.

19         (4) If a contractor's surety bond or other security has an  
20 unsatisfied judgment against it or is canceled, or if the contractor's  
21 insurance policy is canceled, the contractor's registration shall be  
22 automatically suspended on the effective date of the impairment or  
23 cancellation. The department shall give notice of the suspension to  
24 the contractor.

25        NEW SECTION.   **Sec. 15.**   (1) The board shall appoint an advisory  
26 board to be called the contractors education board. The advisory board  
27 shall assist in the development of the education standards required  
28 under subsection (2) of this section. Members of the advisory board  
29 shall be representatives of contractor associations or other contractor  
30 organizations, except that one member shall represent education.  
31 Members of the advisory board shall not be entitled to compensation.

32         (2) The board shall require by rule that applicants for  
33 registration under this chapter provide evidence of completion of up to  
34 eight hours of education in subjects relating to business practices and  
35 laws that affect contractors. This provision shall not apply to  
36 contractors licensed prior to the effective date of this act.

37         (3) In adopting rules pursuant to this section, the board shall  
38 take into consideration the availability of training programs in areas

1 of the state and shall encourage training providers to use the most up-  
2 to-date technology.

3       **NEW SECTION.**   **Sec. 16.** A new section is added to chapter 43.22 RCW  
4 to read as follows:

5       The labor and industries certification account is created in the  
6 office of the state treasurer. All receipts from fees collected under  
7 RCW 18.27.070 and 43.22.480 shall be deposited into the account.  
8 Expenditures from the account may be used only for costs relating to  
9 regulation, certification, and approvals concerning contractors and  
10 factory built housing. Only the director of labor and industries or  
11 the director's designee may authorize expenditures from the account.  
12 The account is subject to allotment procedures under chapter 43.88 RCW,  
13 but no appropriation is required for expenditures. On January 1 of  
14 each year, any funds in the account in excess of two million five  
15 hundred thousand dollars shall be transferred to the general fund.

16       **NEW SECTION.**   **Sec. 17.** (1) Any person who violates any provisions  
17 of this chapter or any rule adopted under this chapter shall forfeit  
18 and pay into the general fund of the state treasury a civil penalty in  
19 an amount determined by the board of not more than one thousand dollars  
20 for each offense.

21       (2) The provisions of this section are in addition to and not in  
22 lieu of any other penalty or sanction provided by law.

23       **NEW SECTION.**   **Sec. 18.** A contractor shall not hire any  
24 subcontractor or other contractor to perform work unless the  
25 subcontractor or contractor is registered under this chapter or exempt  
26 from registration under the provisions of RCW 18.27.090.

27       **NEW SECTION.**   **Sec. 19.** A contractor shall not perform work subject  
28 to this section for an owner of a structure or property without a  
29 written contract if the aggregate contract price exceeds one thousand  
30 dollars. If the price of such contract was initially less than one  
31 thousand dollars, but during the course of performance of the contract  
32 exceeds that amount, the contractor shall mail or otherwise deliver a  
33 written contract to the owner not later than five days after the  
34 contractor knows or should reasonably know that the contract price will  
35 exceed one thousand dollars. Failure to reduce a contract to writing

1 does not by itself make the contract void or voidable and does not by  
2 itself excuse performance.

3       **NEW SECTION.**   **Sec. 20.** A contractor found to have committed an  
4 infraction under section 18 or 19 of this act or RCW 18.27.200 shall  
5 forfeit all lien rights under chapter 60.04 RCW that have been  
6 acquired.

7       **NEW SECTION.**   **Sec. 21.** RCW 18.27.030 and 1992 c 217 s 1 & 1988 c  
8 285 s 1 are each repealed.

9       **NEW SECTION.**   **Sec. 22.** Sections 2 through 5, 7 through 13, 15, and  
10 17 through 20 of this act are each added to chapter 18.27 RCW.

11     **NEW SECTION.**   **Sec. 23.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and shall take  
14 effect July 1, 1993.

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