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**SUBSTITUTE SENATE BILL 6614**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz, Sutherland and Heavey)

Read first time 02/02/96.

1 AN ACT Relating to the construction trades; amending RCW 60.04.031,  
2 18.27.140, 18.27.010, 18.27.020, 18.27.030, 18.27.040, 18.27.060,  
3 18.27.090, 18.27.100, 18.27.104, 18.27.110, 18.27.114, 18.27.117,  
4 18.27.200, 18.27.230, and 18.27.340; reenacting and amending RCW  
5 51.12.020; adding a new chapter to Title 60 RCW; creating a new  
6 section; prescribing penalties; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** (1) "Professional services" means surveying,  
9 establishing, or marking the boundaries of, preparing maps, plans, or  
10 specifications for, or inspecting, testing, or otherwise performing  
11 other architectural or engineering services for the improvement of real  
12 property.

13 (2) "Retainage" means a portion of a payment that is due a retainee  
14 but is being withheld or retained by an owner, contractor, or  
15 subcontractor as security for, until, or conditioned upon completion  
16 of the work of improvement. The retainage is considered conditionally  
17 earned by and owed to the retainee and is held by the retainor.

18 (3) "Retainee" means a contractor, subcontractor, material  
19 supplier, equipment, or professional services provider who has

1 performed all or part of a work of improvement and who has had some  
2 portion of sums due under a contract withheld by the retainor.

3 (4) "Retainor" means a person or entity, excluding those persons  
4 loaning or advancing funds under interim or construction financing as  
5 defined in RCW 60.04.011, that withholds retainage.

6 (5)(a) "Substantial completion" means the date upon which the work  
7 of improvement has been completed as specified under the contract, the  
8 date upon which the improvement becomes usable or fit for the purposes  
9 for which it was intended, the date of issuance of a certificate of  
10 occupancy, or the date of occupation or use of the improvement by the  
11 owner or an agent of the owner.

12 (b) "Substantial completion" occurs on the earliest occurrence of  
13 any of the events under (a) of this subsection.

14 (6) "Work of improvement" means work performed or provided,  
15 including labor, materials, equipment, and professional services, that  
16 has led to the improvement of real property for a private owner. Work  
17 of improvement includes incremental improvements that are in themselves  
18 complete but do not necessarily bring a property improvement to a state  
19 of substantial completion.

20 NEW SECTION. **Sec. 2.** (1) Any moneys released to or obtained by an  
21 owner, developer, prime contractor, subcontractor, or person in charge  
22 of a construction project in connection with a work of improvement,  
23 must be regarded and held for the benefit of those persons making the  
24 payment and those who provided the labor or furnished materials,  
25 equipment, or professional services in connection with the work of  
26 improvement giving rise to the receipt of the moneys.

27 (2) Nothing contained in this section may be construed as requiring  
28 moneys held by an owner, contractor, or subcontractor under subsection  
29 (1) of this section to be placed in a separate account. If an owner,  
30 contractor, or subcontractor commingles moneys held under this section  
31 with other moneys, the mere commingling of the moneys does not  
32 constitute a violation of sections 1 through 6 of this act.

33 (3)(a) The use of moneys for a purpose other than to first pay when  
34 due those persons for whom the funds are held is prima facie evidence  
35 of an intent to defraud in a civil action.

36 (b) The mishandling of work of improvement moneys is a matter  
37 affecting the public interest for the purpose of applying chapter 19.86  
38 RCW. The failure to use the money as intended is not reasonable in

1 relation to the development and preservation of business. A violation  
2 of this section constitutes an unfair or deceptive act or practice in  
3 trade or commerce for the purpose of applying chapter 19.86 RCW.

4 NEW SECTION. **Sec. 3.** (1) The owner must pay amounts due the prime  
5 contractor for a work of improvement no later than ten days after  
6 receipt of draws or loan disbursements, or receipt, possession, or  
7 availability, regardless of source, of construction funds. The prime  
8 contractor must pay amounts due subcontractors and suppliers for a work  
9 of improvement, and the subcontractor must pay amounts due their  
10 suppliers and lower tier subcontractors for a work of improvement, no  
11 later than ten days after receipt of draws, progress payments, or final  
12 payment for that work of improvement.

13 (2) In the event that there is a good faith dispute over all or any  
14 portion of the amount due from the owner to the prime contractor, prime  
15 contractor to a subcontractor, subcontractor to a subcontractor, or  
16 contractor to a supplier, then the owner, prime contractor, or  
17 subcontractor may withhold no more than one hundred fifty percent of  
18 the disputed amount.

19 NEW SECTION. **Sec. 4.** (1) Except for improvements made on an  
20 existing owner-occupied single-family residential property, retainage  
21 is regarded as held by the retainor and is treated as the property of  
22 the retainee.

23 (2) Except as permitted in subsection (3) of this section,  
24 retainage must be released no later than sixty days from the date of  
25 substantial completion of the work of improvement.

26 (3) In the event there is a good faith dispute over the release of  
27 all or any portion of the retainage, the retainor may not withhold an  
28 amount in excess of one hundred fifty percent of the estimated value of  
29 the issue in dispute. Others not party to a dispute are entitled to  
30 full and prompt payment of their portion of the retained amount.

31 NEW SECTION. **Sec. 5.** In addition to all other remedies either  
32 civil, administrative, or criminal, a person from whom funds have been  
33 withheld in violation of sections 1 through 6 of this act is entitled  
34 to receive from the person wrongfully withholding the funds, for every  
35 month and portion thereof that payment including retainage is not made,  
36 interest of twelve percent per annum or as established under RCW

1 19.52.025, whichever is greater, plus an additional charge of one and  
2 one-half percent per month. In an action for the collection of funds  
3 withheld, the prevailing party is entitled to costs of suit and his or  
4 her reasonable attorneys' fees.

5 NEW SECTION. **Sec. 6.** (1) Sections 1 through 5 of this act apply  
6 only to the new construction of single-family residences that will be  
7 occupied by an owner of the property within sixty days of substantial  
8 completion.

9 (2) It is against public policy for any party to require any other  
10 party to waive a provision of sections 1 through 5 of this act.

11 (3) Sections 1 through 5 of this act must be liberally construed to  
12 provide security for all parties intended to be protected by its  
13 provisions.

14 **Sec. 7.** RCW 60.04.031 and 1992 c 126 s 2 are each amended to read  
15 as follows:

16 (1) Except as otherwise provided in this section, every person  
17 furnishing professional services, materials, or equipment for the  
18 improvement of real property shall give the owner or reputed owner  
19 notice in writing of the right to claim a lien. If the prime  
20 contractor is in compliance with the requirements of RCW 19.27.095,  
21 60.04.230, and 60.04.261, this notice shall also be given to the prime  
22 contractor as described in this subsection unless the potential lien  
23 claimant has contracted directly with the prime contractor. The notice  
24 may be given at any time but only protects the right to claim a lien  
25 for professional services, materials, or equipment supplied after the  
26 date which is sixty days before:

27 (a) Mailing the notice by certified or registered mail to the owner  
28 or reputed owner; or

29 (b) Delivering or serving the notice personally upon the owner or  
30 reputed owner and obtaining evidence of delivery in the form of a  
31 receipt or other acknowledgment signed by the owner or reputed owner or  
32 an affidavit of service.

33 In the case of new construction of a single-family residence, the  
34 notice of a right to claim a lien may be given at any time but only  
35 protects the right to claim a lien for professional services,  
36 materials, or equipment supplied after a date which is ten days before  
37 the notice is given as described in this subsection.

1 (2) Notices of a right to claim a lien shall not be required of:

2 (a) Persons who contract directly with the owner or the owner's  
3 common law agent;

4 (b) Laborers whose claim of lien is based solely on performing  
5 labor; or

6 (c) Subcontractors who contract for the improvement of real  
7 property directly with the prime contractor, except as provided in  
8 subsection (3)(b) of this section.

9 (3) Persons who furnish professional services, materials, or  
10 equipment in connection with the repair, alteration, or remodel of an  
11 existing owner-occupied single-family residence or appurtenant garage,  
12 or persons who furnish professional services, materials, or equipment  
13 in connection with the new construction of a single-family residence if  
14 the owner of the property is not the prime contractor and if the owner  
15 intends to and will occupy that residence within sixty days of  
16 substantial completion:

17 (a) Who contract directly with the (~~owner-occupier~~) owner or  
18 (~~their~~) the owner's common law agent shall not be required to send a  
19 written notice of the right to claim a lien and shall have a lien for  
20 the full amount due under their contract, as provided in RCW 60.04.021;  
21 or

22 (b) Who do not contract directly with the (~~owner-occupier~~) owner  
23 or (~~their~~) the owner's common law agent shall give notice of the  
24 right to claim a lien to the (~~owner-occupier~~) owner. Liens of  
25 persons furnishing professional services, materials, or equipment who  
26 do not contract directly with the (~~owner-occupier~~) owner or (~~their~~)  
27 the owner's common law agent may only be satisfied from amounts not yet  
28 paid to the prime contractor by the owner at the time the notice  
29 described in this section is received, regardless of whether amounts  
30 not yet paid to the prime contractor are due. For the purposes of this  
31 subsection "received" means actual receipt of notice by personal  
32 service, or registered or certified mail, or three days after mailing  
33 by registered or certified mail, excluding Saturdays, Sundays, or legal  
34 holidays.

35 (4) The notice of right to claim a lien described in subsection (1)  
36 of this section, shall include but not be limited to the following  
37 information and shall substantially be in the following form, using  
38 lower-case and upper-case ten-point type where appropriate.

39 NOTICE TO OWNER

1                   IMPORTANT:  READ BOTH SIDES OF THIS NOTICE  
2   CAREFULLY.

3                   PROTECT YOURSELF FROM PAYING TWICE

4 To:     . . . . .   Date: . . . . .

5 Re:           (description of property:     Street address or general  
6     location.)

7 From:   . . . . .

8 AT THE REQUEST OF:           (Name of person ordering the professional  
9 services, materials, or equipment)

10 THIS IS NOT A LIEN:  This notice is sent to you to tell you who is  
11 providing professional services, materials, or equipment for the  
12 improvement of your property and to advise you of the rights of these  
13 persons and your responsibilities.  Also take note that laborers on  
14 your project may claim a lien without sending you a notice.

15   OWNER/OCCUPIER OF EXISTING  
16   RESIDENTIAL PROPERTY

17 Under Washington law, those who furnish labor, professional services,  
18 materials, or equipment for the repair, remodel, or alteration of your  
19 owner-occupied principal residence and who are not paid, have a right  
20 to enforce their claim for payment against your property.  This claim  
21 is known as a construction lien.

22 The law limits the amount that a lien claimant can claim against your  
23 property.  Claims may only be made against that portion of the contract  
24 price you have not yet paid to your prime contractor as of the time  
25 this notice was given to you or three days after this notice was mailed  
26 to you.  Review the back of this notice for more information and ways  
27 to avoid lien claims.

28   COMMERCIAL AND/OR NEW  
29   RESIDENTIAL PROPERTY

30 We have or will be providing professional services, materials, or  
31 equipment for the improvement of your commercial or new residential  
32 project.  In the event you or your contractor fail to pay us, we may  
33 file a lien against your property.  A lien may be claimed for all  
34 professional services, materials, or equipment furnished after a date

1 that is sixty days before this notice was given to you or mailed to  
2 you, unless the improvement to your property is the construction of a  
3 new single-family residence, then ten days before this notice was given  
4 to you or mailed to you.

5 Sender: . . . . .  
6 Address: . . . . .  
7 Telephone: . . . . .

8 Brief description of professional services, materials, or equipment  
9 provided or to be provided: . . . . .

10 IMPORTANT INFORMATION  
11 ON REVERSE SIDE

12 IMPORTANT INFORMATION  
13 FOR YOUR PROTECTION

14 This notice is sent to inform you that we have or will provide  
15 professional services, materials, or equipment for the improvement of  
16 your property. We expect to be paid by the person who ordered our  
17 services, but if we are not paid, we have the right to enforce our  
18 claim by filing a construction lien against your property.

19 LEARN more about the lien laws and the meaning of this notice by  
20 discussing them with your contractor, suppliers, Department of Labor  
21 and Industries, the firm sending you this notice, your lender, or your  
22 attorney.

23 COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods  
24 available to protect your property from construction liens. The  
25 following are two of the more commonly used methods.

26 DUAL PAYCHECKS (Joint Checks): When paying your contractor for  
27 services or materials, you may make checks payable jointly to  
28 the contractor and the firms furnishing you this notice.

29 LIEN RELEASES: You may require your contractor to provide lien  
30 releases signed by all the suppliers and subcontractors from  
31 whom you have received this notice. If they cannot obtain lien  
32 releases because you have not paid them, you may use the dual  
33 payee check method to protect yourself.

34 YOU SHOULD TAKE APPROPRIATE STEPS TO PROTECT YOUR PROPERTY FROM LIENS.

1 YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION LENDER ARE REQUIRED BY LAW  
2 TO GIVE YOU WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU HAVE NOT  
3 RECEIVED IT, ASK THEM FOR IT.

4 \* \* \* \* \*

5 (5) Every potential lien claimant providing professional services  
6 where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been  
7 commenced, and the professional services provided are not visible from  
8 an inspection of the real property may record in the real property  
9 records of the county where the property is located a notice which  
10 shall contain the professional service provider's name, address,  
11 telephone number, legal description of the property, the owner or  
12 reputed owner's name, and the general nature of the professional  
13 services provided. If such notice is not recorded, the lien claimed  
14 shall be subordinate to the interest of any subsequent mortgagee and  
15 invalid as to the interest of any subsequent purchaser if the mortgagee  
16 or purchaser acts in good faith and for a valuable consideration  
17 acquires an interest in the property prior to the commencement of an  
18 improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of  
19 the professional services being provided. The notice described in this  
20 subsection shall be substantially in the following form:

21 NOTICE OF FURNISHING  
22 PROFESSIONAL SERVICES

23 That on the \_\_\_(day)\_\_\_ day of \_\_\_(month and year)\_\_\_, \_\_\_(name of  
24 provider)\_\_\_ began providing professional services upon or for the  
25 improvement of real property legally described as follows:

26 [Legal Description  
27 is mandatory]

28 The general nature of the professional services provided is . . .  
29 . . . . .  
30 The owner or reputed owner of the real property is . . . . .  
31 . . . . .

32 . . . . .  
33 (Signature)

34 . . . . .  
35 (Name of Claimant)



1 . . . . .  
2 (Street Address)  
3 . . . . .  
4 (City, State, Zip Code)  
5 . . . . .  
6 (Phone Number)

7 (6) A lien authorized by this chapter shall not be enforced unless  
8 the lien claimant has complied with the applicable provisions of this  
9 section.

10 **Sec. 8.** RCW 18.27.140 and 1983 1st ex.s. c 2 s 21 are each amended  
11 to read as follows:

12 It is the purpose of this chapter to afford protection to the  
13 public including all persons, firms, and corporations furnishing labor,  
14 materials, or equipment to a contractor from unreliable, fraudulent,  
15 financially irresponsible, or incompetent contractors.

16 This chapter must be strictly enforced to accomplish these  
17 purposes. The doctrine of substantial compliance may not be used by  
18 the department in the application and construction of this chapter.  
19 Anyone engaged in the activities of a contractor is presumed to know  
20 the requirements of this chapter.

21 **Sec. 9.** RCW 18.27.010 and 1993 c 454 s 2 are each amended to read  
22 as follows:

23 Unless the context clearly requires otherwise, the definitions in  
24 this section apply throughout this chapter.

25 (1) "Contractor" means any person, firm, or corporation who or  
26 which, in the pursuit of an independent business undertakes to, or  
27 offers to undertake, or submits a bid to, construct, alter, repair, add  
28 to, subtract from, improve, move, wreck or demolish, for another, any  
29 building, highway, road, railroad, excavation or other structure,  
30 project, development, or improvement attached to real estate or to do  
31 any part thereof including the installation of carpeting or other floor  
32 covering, the erection of scaffolding or other structures or works in  
33 connection therewith or who installs or repairs roofing or siding; or,  
34 who, to do similar work upon his or her own property, employs members  
35 of more than one trade upon a single job or project or under a single  
36 building permit except as otherwise provided herein. "Contractor"

1 includes any person, firm, or corporation covered by this subsection,  
2 whether or not registered as required under this chapter.

3 (2) "General contractor" means a contractor whose business  
4 operations require the use of more than two unrelated building trades  
5 or crafts whose work the contractor shall superintend or do in whole or  
6 in part. "General contractor" shall not include an individual who does  
7 all work personally without employees or other "specialty contractors"  
8 as defined (~~herein~~) in this section. The terms "general contractor"  
9 and "builder" are synonymous.

10 (3) "Specialty contractor" means a contractor whose operations (~~as~~  
11 ~~such~~) do not fall within the foregoing definition of "general  
12 contractor."

13 (4) "Department" means the department of labor and industries.

14 (5) "Director" means the director of the department of labor and  
15 industries.

16 (6) "Verification" means the receipt and duplication by the city,  
17 town, or county of a contractor registration card that is current on  
18 its face.

19 **Sec. 10.** RCW 18.27.020 and 1993 c 454 s 6 are each amended to read  
20 as follows:

21 (1) Every contractor shall register with the department.

22 (2) It is a misdemeanor for any contractor to:

23 (a) Advertise, offer to do work, submit a bid, or perform any work  
24 as a contractor without being registered as required by this chapter;

25 (b) Advertise, offer to do work, submit a bid, or perform any work  
26 as a contractor when the contractor's registration is suspended or  
27 revoked;

28 (c) Use a false or expired registration number in purchasing or  
29 offering to purchase an advertisement for which a contractor  
30 registration number is required; (~~or~~)

31 (d) Transfer a valid registration to an unregistered contractor or  
32 allow an unregistered contractor to work under a registration issued to  
33 another contractor; or

34 (e) Knowingly subcontract work to a person, firm, or corporation  
35 not registered as required under this chapter. However, a contractor  
36 does not commit a misdemeanor under this section if a subcontractor  
37 becomes unregistered during the course of its work without the  
38 knowledge of the contractor.

1 (3) All misdemeanor actions under this chapter shall be prosecuted  
2 in the county where the (~~infraction~~) violation occurs.

3 (4) Each day beyond the date of citation that a person works  
4 without being registered as required by this chapter, works while his  
5 or her contractor's registration is suspended or revoked, or works  
6 under a registration issued to another contractor is a separate  
7 misdemeanor. Each worksite at which a person works without being  
8 registered as required by this chapter, works while his or her  
9 contractor's registration is suspended or revoked, or works under a  
10 registration issued to another contractor is a separate misdemeanor.

11 (5) The director by rule shall establish a two-year audit and  
12 monitoring program for a contractor not registered under this chapter  
13 who becomes registered after receiving an infraction or conviction  
14 under this chapter as an unregistered contractor. The director shall  
15 notify the department of revenue and the employment security department  
16 of such infractions or convictions and shall cooperate with such  
17 departments in determining whether any taxes or registration, license,  
18 or other fees or penalties are owed the state.

19 **Sec. 11.** RCW 18.27.030 and 1992 c 217 s 1 are each amended to read  
20 as follows:

21 (1) An applicant for registration as a contractor shall submit an  
22 application under oath upon a form to be prescribed by the director and  
23 which shall include the following information pertaining to the  
24 applicant:

25 (a) Employer social security number.

26 (b) As applicable: (i) The industrial insurance account number  
27 covering employees domiciled in Washington; and (ii) evidence of  
28 workers' compensation coverage in the applicant's state of domicile for  
29 the applicant's employees working in Washington who are not domiciled  
30 in Washington.

31 (c) Employment security department number.

32 (d) State excise tax registration number.

33 (e) Unified business identifier (UBI) account number may be  
34 substituted for the information required by (b), (c), and (d) of this  
35 subsection.

36 (f) Type of contracting activity, whether a general or a specialty  
37 contractor and if the latter, the type of specialty.

1 (g) The name and address of each partner if the applicant be a firm  
2 or partnership, or the name and address of the owner if the applicant  
3 be an individual proprietorship, or the name and address of the  
4 corporate officers and statutory agent, if any, if the applicant be a  
5 corporation. The information contained in such application shall be a  
6 matter of public record and open to public inspection.

7 (2) The department may verify the workers' compensation coverage  
8 information provided by the applicant under subsection (1)(b) of this  
9 section, including but not limited to information regarding the  
10 coverage of an individual employee of the applicant. If coverage is  
11 provided under the laws of another state, the department may notify the  
12 other state that the applicant is employing employees in Washington.

13 (3) The department shall deny an application for registration  
14 ~~((shall be denied))~~ if the applicant has been previously registered as  
15 a sole proprietor, partnership, or corporation ~~((, and was a principal~~  
16 ~~or officer of the corporation,))~~ and ~~((if))~~ the applicant has an  
17 unsatisfied final judgment against him or her in an action based on RCW  
18 18.27.040 ~~((,))~~ that was incurred during a previous registration under  
19 this chapter.

20 In addition, the department must check for an applicant's past  
21 noncompliance with this chapter, including checking for evidence of  
22 violations of this chapter, suspended or revoked registrations, or  
23 misdemeanors or infractions under this chapter relating to the  
24 construction industry. Multiple instances of past noncompliance may be  
25 grounds for application denial.

26 **Sec. 12.** RCW 18.27.040 and 1988 c 139 s 1 are each amended to read  
27 as follows:

28 (1) Each applicant shall ~~((, at the time of applying for or renewing~~  
29 ~~a certificate of registration, file with the department a surety bond~~  
30 ~~issued by a surety insurer who meets the requirements of chapter 48.28~~  
31 ~~RCW in a form acceptable to the department running to the state of~~  
32 ~~Washington if a general contractor, in the sum of six thousand dollars;~~  
33 ~~if a specialty contractor, in the sum of four thousand dollars,))~~  
34 accompany the application for a certificate of registration with a  
35 surety bond or continuation certificate issued by a surety insurer who  
36 meets the requirements of chapter 48.28 RCW in the sum of six thousand  
37 dollars if the applicant is a general contractor and four thousand  
38 dollars if the applicant is a specialty contractor. The bond shall

1 have the state of Washington named as obligee with good and sufficient  
2 surety in a form to be approved by the department. The bond shall be  
3 continuous and may be canceled by the surety upon the surety giving  
4 written notice to the director of its intent to cancel the bond. A  
5 cancellation or revocation of the bond or withdrawal of the surety from  
6 the bond suspends the registration issued to the registrant until a new  
7 bond or reinstatement notice has been filed and approved as provided in  
8 this section. Whether or not the bond is renewed, continued,  
9 reinstated, reissued, or otherwise extended, replaced, or modified,  
10 including increases or decreases in the penal sum, it shall be  
11 considered one continuous obligation, and the surety upon the bond  
12 shall not be liable in an aggregate or cumulative amount exceeding the  
13 penal sum set forth on the face of the bond. In no event shall the  
14 penal sum, or a portion thereof, at two or more points in time be added  
15 together in determining the surety's liability. The bond shall be  
16 conditioned that the applicant will pay all persons performing labor,  
17 including employee benefits, for the contractor, will pay all taxes and  
18 contributions due to the state of Washington, and will pay all persons  
19 furnishing labor or material or renting or supplying equipment to the  
20 contractor and will pay all amounts that may be adjudged against the  
21 contractor by reason of ((negligent or improper work or)) breach of  
22 contract including negligent or improper work in the conduct of the  
23 contracting business. A change in the name of a business or a change  
24 in the type of business entity shall not impair a bond for the purposes  
25 of this section so long as one of the original applicants for such bond  
26 maintains partial ownership in the business covered by the bond.

27 (2) Any contractor registered as of ((~~the effective date of this~~  
28 ~~1983 act~~)) July 1, 1996, who maintains such registration in accordance  
29 with this chapter shall be in compliance with this chapter until the  
30 next annual renewal of the contractor's certificate of registration.  
31 At that time, the contractor shall provide a bond, cash deposit, or  
32 other security deposit as required by this chapter and comply with all  
33 of the other provisions of this chapter before the department shall  
34 renew the contractor's certificate of registration.

35 (3) Any person, firm, or corporation having a claim against the  
36 contractor for any of the items referred to in this section may bring  
37 suit upon ((~~such~~)) the bond or deposit in the superior court of the  
38 county in which the work was done or of any county in which  
39 jurisdiction of the contractor may be had. The surety issuing the bond

1 shall be named as a party to any suit upon the bond. Action upon  
2 (~~such~~) the bond or deposit shall be commenced by filing the summons  
3 and complaint with the clerk of the appropriate superior court within  
4 one year from the date of expiration of the certificate of registration  
5 in force at the time the claimed labor was performed and benefits  
6 accrued, taxes and contributions owing the state of Washington became  
7 due, materials and equipment were furnished, or the claimed contract  
8 work was completed or abandoned. Service of process in an action  
9 against the contractor, the contractor's bond, or the deposit shall be  
10 exclusively by service upon the department. Three copies of the  
11 summons and complaint and a fee of ten dollars to cover the handling  
12 costs shall be served by registered or certified mail upon the  
13 department at the time suit is started and the department shall  
14 maintain a record, available for public inspection, of all suits so  
15 commenced. Service is not complete until the department receives the  
16 ten-dollar fee and three copies of the summons and complaint. (~~Such~~)  
17 The service shall constitute service on the registrant and the surety  
18 for suit upon the bond or deposit and the department shall transmit the  
19 summons and complaint or a copy thereof to the registrant at the  
20 address listed in his or her application and to the surety within  
21 forty-eight hours after it shall have been received.

22 (4) The surety upon the bond shall not be liable in an aggregate  
23 amount in excess of the amount named in the bond nor for any monetary  
24 penalty assessed pursuant to this chapter for an infraction. The  
25 liability of the surety shall not cumulate where the bond has been  
26 renewed, continued, reinstated, reissued or otherwise extended. The  
27 surety upon the bond may, upon notice to the department and the  
28 parties, tender to the clerk of the court having jurisdiction of the  
29 action an amount equal to the claims thereunder or the amount of the  
30 bond less the amount of judgments, if any, previously satisfied  
31 therefrom and to the extent of such tender the surety upon the bond  
32 shall be exonerated but if the actions commenced and pending at any one  
33 time exceed the amount of the bond then unimpaired, claims shall be  
34 satisfied from the bond in the following order:

- 35 (a) Employee labor, including employee benefits;
- 36 (b) Claims for breach of contract by a party to the construction  
37 contract;
- 38 (c) Material and equipment;
- 39 (d) Taxes and contributions due the state of Washington;

1 (e) Any court costs, interest, and attorney's fees plaintiff may be  
2 entitled to recover. The prevailing party in a bond claim action  
3 against the contractor and the contractor's bond, as required by this  
4 section, for breach of a construction contract is entitled to costs,  
5 interest, and reasonable attorneys' fees. In no event, however, may  
6 the combined costs, interest, attorneys' fees, and bond loss exceed the  
7 penal limit of the bond.

8 A payment made by the surety in good faith shall exonerate the bond  
9 to extent of any payment made by the surety.

10 (5) ~~((In the event that any))~~ If a final judgment ~~((shall))~~ impairs  
11 the liability of the surety upon the bond so furnished that there shall  
12 not be in effect a bond undertaking in the full amount prescribed in  
13 this section, the department shall suspend the registration of ~~((such))~~  
14 the contractor until the bond liability in the required amount  
15 unimpaired by unsatisfied judgment claims ~~((shall have been))~~ is  
16 furnished. If ~~((such))~~ the bond becomes fully impaired, a new bond  
17 must be furnished at the ~~((increased))~~ rates prescribed by this section  
18 ~~((as now or hereafter amended)).~~

19 (6) In lieu of the surety bond required by this section the  
20 contractor may file with the department a deposit consisting of cash or  
21 other security acceptable to the department.

22 (7) Any person having filed and served a summons and complaint as  
23 required by this section having an unsatisfied final judgment against  
24 the registrant for any items referred to in this section may execute  
25 upon the security held by the department by serving a certified copy of  
26 the unsatisfied final judgment by registered or certified mail upon the  
27 department within one year of the date of entry of such judgment. Upon  
28 the receipt of service of ~~((such))~~ the certified copy the department  
29 shall pay or order paid from the deposit, through the registry of the  
30 superior court which rendered judgment, towards the amount of the  
31 unsatisfied judgment. The priority of payment by the department shall  
32 be the order of receipt by the department, but the department shall  
33 have no liability for payment in excess of the amount of the deposit.

34 (8) The director may ~~((promulgate))~~ adopt rules necessary for the  
35 proper administration of the security.

36 **Sec. 13.** RCW 18.27.060 and 1983 1st ex.s. c 2 s 19 are each  
37 amended to read as follows:

1 (1) A certificate of registration shall be valid for one year and  
2 shall be renewed on or before the expiration date. The department  
3 shall issue to the applicant a certificate of registration upon  
4 compliance with the registration requirements of this chapter.

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

8 (a) One year;

9 (b) Until the bond expires; or

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

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

14 (4) If a contractor's surety bond or other security has an  
15 unsatisfied judgment against it or is canceled, or if the contractor's  
16 insurance policy is canceled, the contractor's registration shall be  
17 automatically suspended on the effective date of the impairment or  
18 cancellation. The department shall give notice of the suspension to  
19 the contractor by certified and by first class mail within forty-eight  
20 hours after suspension.

21 (5) Renewal of registration shall be considered valid upon the date  
22 the department receives the required fee and proof of bond and  
23 liability insurance, if sent by certified mail or other means requiring  
24 proof of delivery. The receipt or proof of delivery shall serve as the  
25 contractor's proof of renewed registration until he or she receives  
26 verification from the department.

27 **Sec. 14.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read  
28 as follows:

29 This chapter (~~shall~~) does not apply to:

30 (1) An authorized representative of the United States government,  
31 the state of Washington, or any incorporated city, town, county,  
32 township, irrigation district, reclamation district, or other municipal  
33 or political corporation or subdivision of this state;

34 (2) Officers of a court when they are acting within the scope of  
35 their office;

36 (3) Public utilities operating under the regulations of the  
37 utilities and transportation commission in construction, maintenance,  
38 or development work incidental to their own business;



1 (4) Any construction, repair, or operation incidental to the  
2 discovering or producing of petroleum or gas, or the drilling, testing,  
3 abandoning, or other operation of any petroleum or gas well or any  
4 surface or underground mine or mineral deposit when performed by an  
5 owner or lessee;

6 (5) The sale or installation of any finished products, materials,  
7 or articles of merchandise which are not actually fabricated into and  
8 do not become a permanent fixed part of a structure;

9 (6) Any construction, alteration, improvement, or repair of  
10 personal property, except this chapter shall apply to all  
11 mobile/manufactured housing. A mobile/manufactured home may be  
12 installed, set up, or repaired by the registered or legal owner, by a  
13 contractor (~~licensed~~) registered under this chapter, or by a  
14 mobile/manufactured home retail dealer or manufacturer licensed under  
15 chapter 46.70 RCW who shall warranty service and repairs under chapter  
16 46.70 RCW;

17 (7) Any construction, alteration, improvement, or repair carried on  
18 within the limits and boundaries of any site or reservation under the  
19 legal jurisdiction of the federal government;

20 (8) Any person who only furnished materials, supplies, or equipment  
21 without fabricating them into, or consuming them in the performance of,  
22 the work of the contractor;

23 (9) Any work or operation on one undertaking or project by one or  
24 more contracts, the aggregate contract price of which for labor and  
25 materials and all other items is less than five hundred dollars, such  
26 work or operations being considered as of a casual, minor, or  
27 inconsequential nature. The exemption prescribed in this subsection  
28 does not apply in any instance wherein the work or construction is only  
29 a part of a larger or major operation, whether undertaken by the same  
30 or a different contractor, or in which a division of the operation is  
31 made into contracts of amounts less than five hundred dollars for the  
32 purpose of evasion of this chapter or otherwise. The exemption  
33 prescribed in this subsection does not apply to a person who advertises  
34 or puts out any sign or card or other device which might indicate to  
35 the public that he or she is a contractor, or that he or she is  
36 qualified to engage in the business of contractor;

37 (10) Any construction or operation incidental to the construction  
38 and repair of irrigation and drainage ditches of regularly constituted  
39 irrigation districts or reclamation districts; or to farming, dairying,

1 agriculture, viticulture, horticulture, or stock or poultry raising; or  
2 to clearing or other work upon land in rural districts for fire  
3 prevention purposes; except when any of the above work is performed by  
4 a registered contractor;

5 (11) An owner who contracts for a project with a registered  
6 contractor;

7 (12) Any person working on his or her own property, whether  
8 occupied by him or her or not, and any person working on his or her  
9 personal residence, whether owned by him or her or not but this  
10 exemption shall not apply to any person otherwise covered by this  
11 chapter who constructs an improvement on his or her own property with  
12 the intention and for the purpose of selling the improved property;

13 (13) Owners of commercial properties who use their own employees to  
14 do maintenance, repair, and alteration work in or upon their own  
15 properties;

16 (14) A licensed architect or civil or professional engineer acting  
17 solely in his or her professional capacity, an electrician licensed  
18 under the laws of the state of Washington, or a plumber licensed under  
19 the laws of the state of Washington or licensed by a political  
20 subdivision of the state of Washington while operating within the  
21 boundaries of such political subdivision. The exemption provided in  
22 this subsection is applicable only when the licensee is operating  
23 within the scope of his or her license;

24 (15) Any person who engages in the activities herein regulated as  
25 an employee of a registered contractor with wages as his or her sole  
26 compensation or as an employee with wages as his or her sole  
27 compensation;

28 (16) Contractors on highway projects who have been prequalified as  
29 required by (~~chapter 13 of the Laws of 1961,~~) RCW 47.28.070, with the  
30 department of transportation to perform highway construction,  
31 reconstruction, or maintenance work.

32 **Sec. 15.** RCW 18.27.100 and 1993 c 454 s 3 are each amended to read  
33 as follows:

34 (1) Except as provided in RCW 18.27.065 for partnerships and joint  
35 ventures, no person who has registered under one name as provided in  
36 this chapter shall engage in the business, or act in the capacity, of  
37 a contractor under any other name unless such name also is registered  
38 under this chapter.

1 (2) All advertising and all contracts, correspondence, cards,  
2 signs, posters, papers, and documents which show a contractor's name or  
3 address shall show the contractor's name or address as registered under  
4 this chapter.

5 (3)(a) (~~The alphabetized listing of contractors appearing in the~~  
6 ~~advertising section of telephone books or other directories and~~) All  
7 advertising that shows the contractor's name or address shall show the  
8 contractor's current registration number. The registration number may  
9 be omitted in an alphabetized listing of registered contractors stating  
10 only the name, address, and telephone number: PROVIDED, That signs on  
11 motor vehicles subject to RCW 46.16.010 and on-premise signs shall not  
12 constitute advertising as provided in this section. All materials used  
13 to directly solicit business from retail customers who are not  
14 businesses shall show the contractor's current registration number. A  
15 contractor shall not use a false or expired registration number in  
16 purchasing or offering to purchase an advertisement for which a  
17 contractor registration number is required. Advertising by airwave  
18 transmission shall not be subject to this subsection (3)(a) (~~if the~~  
19 ~~person selling the advertisement obtains the contractor's current~~  
20 ~~registration number from the contractor~~)).

21 (b) (~~A person selling advertising should not accept advertisements~~  
22 ~~for which the contractor registration number is required under (a) of~~  
23 ~~this subsection if the contractor fails to provide the contractor~~  
24 ~~registration number.)) The director may issue a subpoena to any person  
25 or entity selling any advertising subject to this section for the name,  
26 address, and telephone number provided to the seller of the advertising  
27 by the purchaser of the advertising. The subpoena must have enclosed  
28 a stamped, self-addressed envelope and blank form to be filled out by  
29 the seller of the advertising. If the seller of the advertising has  
30 the information on file, the seller shall, within a reasonable time,  
31 return the completed form to the department. The subpoena must be  
32 issued within forty-eight hours after the expiration of the issue or  
33 publication containing the advertising or after the broadcast of the  
34 advertising. The good-faith compliance by a seller of advertising with  
35 a written request of the department for information concerning the  
36 purchaser of advertising shall constitute a complete defense to any  
37 civil or criminal action brought against the seller of advertising  
38 arising from such compliance. Advertising by airwave or electronic  
39 transmission is subject to this subsection (3)(b).~~

1 (4) No contractor shall advertise that he or she is bonded and  
2 insured because of the bond required to be filed and sufficiency of  
3 insurance as provided in this chapter.

4 (5) A contractor shall not falsify a registration number and use  
5 it, or use an expired registration number, in connection with any  
6 solicitation or identification as a contractor. All individual  
7 contractors and all partners, associates, agents, salesmen, solicitors,  
8 officers, and employees of contractors shall use their true names and  
9 addresses at all times while engaged in the business or capacity of a  
10 contractor or activities related thereto.

11 (6) Any advertising by a person, firm, or corporation soliciting  
12 work as a contractor when that person, firm, or corporation is not  
13 registered pursuant to this chapter is a violation of this chapter.

14 (7)(a) The finding of a violation of this section by the director  
15 at a hearing held in accordance with ~~((the Administrative Procedure~~  
16 ~~Act,))~~ chapter 34.05 RCW~~((,))~~ shall subject the person committing the  
17 violation to a penalty of not more than five thousand dollars as  
18 determined by the director.

19 (b) Penalties under this section shall not apply to a violation  
20 determined to be an inadvertent error.

21 **Sec. 16.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to  
22 read as follows:

23 (1) If, upon investigation, the director or the director's designee  
24 has probable cause to believe that a person holding a registration, an  
25 applicant for registration, or ~~((an unregistered))~~ a person acting in  
26 the capacity of a contractor who is not otherwise exempted from this  
27 chapter, has violated RCW 18.27.100 by unlawfully advertising for work  
28 covered by this chapter ~~((in an alphabetical or classified directory)),~~  
29 the department may issue a citation containing an order of correction.  
30 Such order shall require the violator to cease the unlawful  
31 advertising.

32 (2) If the person to whom a citation is issued under subsection (1)  
33 of this section notifies the department in writing that he or she  
34 contests the citation, the department shall afford an opportunity for  
35 an adjudicative proceeding under chapter 34.05 RCW~~((, the~~  
36 ~~Administrative Procedure Act,))~~ within thirty days after receiving the  
37 notification.



1 has posted with the state a bond or cash deposit of  
2 \$6,000/\$4,000 for the purpose of satisfying claims against the  
3 contractor for negligent or improper work or breach of contract  
4 in the conduct of the contractor's business. This bond or cash  
5 deposit may not be sufficient to cover a claim which might  
6 arise from the work done under your contract. If any supplier  
7 of materials used in your construction project or any employee  
8 of the contractor or subcontractor is not paid by the  
9 contractor or subcontractor on your job, your property may be  
10 liened to force payment. If you wish additional protection, you  
11 may request the contractor to provide you with original "lien  
12 release" documents from each supplier or subcontractor on your  
13 project. The contractor is required to provide you with  
14 further information about lien release documents if you request  
15 it. General information is also available from the department  
16 of labor and industries."

17 (~~2) On and after July 1, 1989,~~) Any contractor agreeing to perform  
18 any contracting project: (a) For the repair, alteration, or  
19 construction of four or fewer residential units or accessory structures  
20 on such residential property when the bid or contract price totals one  
21 thousand dollars or more; or (b) for the repair, alteration, or  
22 construction of a commercial building when the bid or contract price  
23 totals one thousand dollars or more but less than sixty thousand  
24 dollars, must provide the customer with the following disclosure  
25 statement prior to starting work on the project:

26 "NOTICE TO CUSTOMER

27 This contractor is registered with the state of Washington,  
28 registration no. . . . , as a general/specialty contractor and  
29 has posted with the state a bond or cash deposit of  
30 \$6,000/\$4,000 for the purpose of satisfying claims against the  
31 contractor for negligent or improper work or breach of contract  
32 in the conduct of the contractor's business. The expiration  
33 date of this contractor's registration is . . . . This  
34 bond or cash deposit may not be sufficient to cover a claim  
35 which might arise from the work done under your contract. If  
36 any supplier of materials used in your construction project or  
37 any employee of the contractor or subcontractor is not paid by  
38 the contractor or subcontractor on your job, your property may

1 be liened to force payment. If you wish additional protection,  
2 you may request the contractor to provide you with original  
3 "lien release" documents from each supplier or subcontractor on  
4 your project. The contractor is required to provide you with  
5 further information about lien release documents if you request  
6 it. General information is also available from the department  
7 of labor and industries."

8 (~~(3) On and after July 1, 1989,~~) (2) A contractor subject to this  
9 section shall notify any consumer to whom notice is required under  
10 subsection ~~((2))~~ (1) of this section if the contractor's registration  
11 has expired or is revoked or suspended by the department prior to  
12 completion or other termination of the contract with the consumer.

13 ~~((4))~~ (3) No contractor subject to this section may bring or  
14 maintain any lien claim under chapter 60.04 RCW based on any contract  
15 to which this section applies without alleging and proving that the  
16 contractor has provided the customer with a copy of the disclosure  
17 statement as required in subsection (1) ~~((or (2)))~~ of this section.

18 ~~((5))~~ (4) This section does not apply to contracts authorized  
19 under chapter 39.04 RCW or to contractors contracting with other  
20 contractors.

21 ~~((6))~~ (5) Failure to comply with this section shall constitute an  
22 infraction under the provisions of this chapter.

23 ~~((7))~~ (6) The department shall produce model disclosure  
24 statements, and public service announcements detailing the information  
25 needed to assist contractors and contractors' customers to comply under  
26 this section. As necessary, the department shall periodically update  
27 these education materials.

28 **Sec. 19.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read  
29 as follows:

30 The legislature finds that setting up and siting mobile/  
31 manufactured homes must be done properly for the health, safety, and  
32 enjoyment of the occupants. Therefore, when any of the following cause  
33 a health and safety risk to the occupants of a mobile/manufactured  
34 home, or severely hinder the use and enjoyment of the mobile/  
35 manufactured home, a violation of RCW 19.86.020 shall have occurred:

36 (1) The mobile/manufactured home has been improperly installed by  
37 a contractor ~~((licensed))~~ registered under this chapter ~~((18.27 RCW))~~,

1 or a mobile/manufactured dealer or manufacturer licensed under chapter  
2 46.70 RCW;

3 (2) A warranty given under this chapter (~~(18.27 RCW)~~) or chapter  
4 46.70 RCW has not been fulfilled by the person or business giving the  
5 warranty; and

6 (3) A bonding company that issues a bond under this chapter (~~(18.27~~  
7 ~~RCW)~~) or chapter 46.70 RCW does not reasonably and professionally  
8 investigate and resolve claims made by injured parties.

9 **Sec. 20.** RCW 18.27.200 and 1993 c 454 s 7 are each amended to read  
10 as follows:

11 (1) It is a violation of this chapter and an infraction for any  
12 contractor to:

13 (a) Advertise, offer to do work, submit a bid, or perform any work  
14 as a contractor without being registered as required by this chapter;

15 (b) Advertise, offer to do work, submit a bid, or perform any work  
16 as a contractor when the contractor's registration is suspended or  
17 revoked; (~~(or)~~)

18 (c) Transfer a valid registration to an unregistered contractor or  
19 allow an unregistered contractor to work under a registration issued to  
20 another contractor; or

21 (d) Knowingly subcontract work to a person not registered as  
22 required under this chapter. However, a contractor does not commit an  
23 infraction if the subcontractor becomes unregistered during the course  
24 of its work without the knowledge of the contractor.

25 (2) Each day that a contractor works without being registered as  
26 required by this chapter, works while the contractor's registration is  
27 suspended or revoked, or works under a registration issued to another  
28 contractor is a separate infraction. Each worksite at which a  
29 contractor works without being registered as required by this chapter,  
30 works while the contractor's registration is suspended, or works under  
31 a registration issued to another contractor is a separate infraction.

32 **Sec. 21.** RCW 18.27.230 and 1993 c 454 s 9 are each amended to read  
33 as follows:

34 The department may issue a notice of infraction if the department  
35 reasonably believes that the contractor (~~(required to be registered by~~  
36 ~~this chapter has failed to do so or)~~) has (~~(otherwise)~~) committed ((a



1 ~~violation under RCW 18.27.200~~) an infraction under this chapter. A  
2 notice of infraction issued under this section shall be personally  
3 served on the contractor named in the notice by the department's  
4 compliance inspectors or service can be made by certified mail directed  
5 to the contractor named in the notice of infraction. If the contractor  
6 named in the notice of infraction is a firm or corporation, the notice  
7 may be personally served on any employee of the firm or corporation.  
8 If a notice of infraction is personally served upon an employee of a  
9 firm or corporation, the department shall within four days of service  
10 send a copy of the notice by certified mail to the contractor if the  
11 department is able to obtain the contractor's address.

12 **Sec. 22.** RCW 18.27.340 and 1986 c 197 s 10 are each amended to  
13 read as follows:

14 (1) Except as otherwise provided in subsection (4) of this section,  
15 a contractor found to have committed an infraction under RCW 18.27.200  
16 shall be assessed a monetary penalty of not less than two hundred  
17 dollars and not more than three thousand dollars.

18 (2) Except as otherwise provided in subsection (4) of this section,  
19 the administrative law judge may waive, reduce, or suspend the monetary  
20 penalty imposed for the infraction only upon a showing of good cause  
21 that the penalty would be unduly burdensome ((to)) for the contractor.

22 (3) The director may waive collection in favor of payment of  
23 restitution to a consumer complainant.

24 (4) If a contractor who is issued a notice of infraction is an  
25 unregistered contractor under this chapter, then the contractor is  
26 subject to a penalty in the amount of one thousand dollars per  
27 violation. The penalty may be reduced, but in no case below five  
28 hundred dollars, if the person registers as a contractor within ten  
29 days of the notice of infraction.

30 (5) Monetary penalties collected under this chapter shall be  
31 deposited in the general fund.

32 **Sec. 23.** RCW 51.12.020 and 1991 c 324 s 18 and 1991 c 246 s 4 are  
33 each reenacted and amended to read as follows:

34 The following are the only employments which shall not be included  
35 within the mandatory coverage of this title:

1 (1) Any person employed as a domestic servant in a private home by  
2 an employer who has less than two employees regularly employed forty or  
3 more hours a week in such employment.

4 (2) Any person employed to do gardening, maintenance, or repair,  
5 (~~remodeling, or similar work~~) in or about the private home of the  
6 employer. For the purposes of this subsection, "maintenance" means the  
7 work of keeping in proper condition, "repair" means to restore to sound  
8 condition after damage, and "private home" means a person's place of  
9 residence.

10 (3) A person whose employment is not in the course of the trade,  
11 business, or profession of his or her employer and is not in or about  
12 the private home of the employer.

13 (4) Any person performing services in return for aid or sustenance  
14 only, received from any religious or charitable organization.

15 (5) Sole proprietors or partners.

16 (6) Any child under eighteen years of age employed by his or her  
17 parent or parents in agricultural activities on the family farm.

18 (7) Jockeys while participating in or preparing horses for race  
19 meets licensed by the Washington horse racing commission pursuant to  
20 chapter 67.16 RCW.

21 (8)(a) Except as otherwise provided in (b) of this subsection, any  
22 bona fide officer of a corporation voluntarily elected or voluntarily  
23 appointed in accordance with the articles of incorporation or bylaws of  
24 the corporation, who at all times during the period involved is also a  
25 bona fide director, and who is also a shareholder of the corporation.  
26 Only such officers who exercise substantial control in the daily  
27 management of the corporation and whose primary responsibilities do not  
28 include the performance of manual labor are included within this  
29 subsection.

30 (b) Alternatively, a corporation that is not a "public company" as  
31 defined in RCW 23B.01.400(~~(+19)~~) (20) may exempt eight or fewer bona  
32 fide officers, who are voluntarily elected or voluntarily appointed in  
33 accordance with the articles of incorporation or bylaws of the  
34 corporation and who exercise substantial control in the daily  
35 management of the corporation, from coverage under this title without  
36 regard to the officers' performance of manual labor if the exempted  
37 officer is a shareholder of the corporation, or may exempt any number  
38 of officers if all the exempted officers are related by blood within  
39 the third degree or marriage. If a corporation that is not a "public

1 company" elects to be covered under subsection (8)(a) of this section,  
2 the corporation's election must be made on a form prescribed by the  
3 department and under such reasonable rules as the department may adopt.

4 (c) Determinations respecting the status of persons performing  
5 services for a corporation shall be made, in part, by reference to  
6 Title 23B RCW and to compliance by the corporation with its own  
7 articles of incorporation and bylaws. For the purpose of determining  
8 coverage under this title, substance shall control over form, and  
9 mandatory coverage under this title shall extend to all workers of this  
10 state, regardless of honorary titles conferred upon those actually  
11 serving as workers.

12 (d) A corporation may elect to cover officers who are exempted by  
13 this subsection in the manner provided by RCW 51.12.110.

14 (9) Services rendered by a musician or entertainer under a contract  
15 with a purchaser of the services, for a specific engagement or  
16 engagements when such musician or entertainer performs no other duties  
17 for the purchaser and is not regularly and continuously employed by the  
18 purchaser. A purchaser does not include the leader of a group or  
19 recognized entity who employs other than on a casual basis musicians or  
20 entertainers.

21 (10) Services performed by a newspaper carrier selling or  
22 distributing newspapers on the street or from house to house.

23 (11) Services performed by an insurance agent, insurance broker, or  
24 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and  
25 48.17.030, respectively.

26 (12) Services performed by a booth renter as defined in RCW  
27 18.16.020. However, a person exempted under this subsection may elect  
28 coverage under RCW 51.32.030.

29 NEW SECTION. **Sec. 24.** This act shall take effect September 1,  
30 1996, and is applicable to all contracts entered into on or after  
31 September 1, 1996, relating to the construction of any work of  
32 improvement.

33 NEW SECTION. **Sec. 25.** Sections 1 through 6 of this act may be  
34 known and cited as the fair pay act.

1        NEW SECTION.    **Sec. 26.**    Sections 1 through 6 of this act shall  
2    constitute a new chapter in Title 60 RCW.

--- **END** ---