
SENATE BILL 5366

State of Washington

55th Legislature

1997 Regular Session

By Senators Snyder, Hargrove and Wojahn

Read first time 01/24/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to contractor surety bonds; and amending RCW
2 18.27.040.

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

4 **Sec. 1.** RCW 18.27.040 and 1988 c 139 s 1 are each amended to read
5 as follows:

6 (1) Each applicant shall, at the time of applying for or renewing
7 a certificate of registration, file with the department a surety bond
8 issued by a surety insurer who meets the requirements of chapter 48.28
9 RCW in a form acceptable to the department running to the state of
10 Washington if a general contractor, in the sum of (~~six~~) fifty
11 thirty thousand dollars; if a specialty contractor, in the sum of (~~four~~)
12 thirty thousand dollars, conditioned that the applicant will pay all
13 persons performing labor, including employee benefits, for the
14 contractor, will pay all taxes and contributions due to the state of
15 Washington, and will pay all persons furnishing labor or material or
16 renting or supplying equipment to the contractor and will pay all
17 amounts that may be adjudged against the contractor by reason of
18 negligent or improper work or breach of contract in the conduct of the
19 contracting business. A change in the name of a business or a change

1 in the type of business entity shall not impair a bond for the purposes
2 of this section so long as one of the original applicants for such bond
3 maintains partial ownership in the business covered by the bond.

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

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

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

1 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 liability
19 of the surety upon the bond so furnished that there shall not be in
20 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) 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) Any person having filed and served a summons and complaint as
30 required by this section having an unsatisfied final judgment against
31 the registrant for any items referred to in this section may execute
32 upon the security held by the department by serving a certified copy of
33 the unsatisfied final judgment by registered or certified mail upon the
34 department within one year of the date of entry of such judgment. Upon
35 the receipt of service of such certified copy the department shall pay
36 or order paid from the deposit, through the registry of the superior
37 court which rendered judgment, towards the amount of the unsatisfied
38 judgment. The priority of payment by the department shall be the order

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

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

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