

SENATE BILL REPORT

SB 5101

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, February 22, 2001

Title: An act relating to consumer protection regarding contractors.

Brief Description: Protecting consumers in contractor transactions.

Sponsors: Senators Prentice, Winsley, Kohl-Welles, Fairley and Fraser; by request of Department of Labor & Industries.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 1/15/01, 2/22/01 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 5101 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Gardner, Vice Chair; Fairley, Patterson, Rasmussen, Regala, West and Winsley.

Minority Report: Do not pass.

Signed by Senator Hochstatter.

Staff: Jack Brummel (786-7428)

Background: Consumer complaints against building contractors are consistently in the top ten of all complaints received by the Attorney General's Office.

General contractors must file a \$6,000 surety bond and specialty contractors must file a \$4,000 surety bond with the Department of Labor and Industries when applying for registration. An action to recover against the bond must be filed in superior court within one year of the expiration of the current certification. The amount of insurance required of a contractor is \$20,000 for property damage, \$50,000 for injury or death to one person, and \$100,000 for injury or death to more than one person.

Registration certificates are issued for one year. The department denies an application for registration if the applicant has previously registered and has an unsatisfied final judgment under the previous registration. A contractor must give notice to a customer at the start of a construction project about the availability of the bond.

The maximum penalty for violation of statutory registration, advertising, identification and solicitation requirements is \$5,000.

Current law does not require that a registered contractor demonstrate professional business competency.

The department is prohibited from charging a contractor's registration fee of more than \$50.

Contractors, subcontractors, or suppliers may file a lien against property if they have not been paid, even if the prime contractor has been paid in full. Notice on the right to claim a lien must be given in certain circumstances.

Summary of Substitute Bill: The Department of Labor and Industries (L & I) must deny a contractor's application for registration and suspend an active registration if the applicant or registrant was a major participant in a contracting company with an unsatisfied final judgment, or has failed to maintain a valid unified business identifier if required by the Department of Revenue.

The amount of the surety bond required is increased to \$12,000 for general contractors and \$6,000 for specialty contractors. Fifty percent of the bond amount is to be reserved for claims by residential homeowners. The amount of the surety bond required may be increased if the director determines there is a history of unpaid judgments against, or too many actions filed against, a contractor. Residential homeowners have up to two years to file against the bond after the work was completed or abandoned.

The amount of insurance required of a contractor is increased to \$50,000 for property damage; to \$100,000 for personal injury or death of one person; and to \$200,000 for personal injury or death of more than one person.

Registration certificates are issued for two years. Impairment of a bond or termination of an insurance policy automatically suspends a contractor's registration.

The department is authorized to establish a process to collect payments, penalties, or fines due from contractors.

The state's contract registration requirements do not apply to mobile or manufactured home purveyors if they use registered contractors to set up or repair homes.

The maximum penalty for false advertising is increased to \$10,000.

The notice that a contractor must give to a customer about the contractor's bond is to include statements that: (1) the bond might not be sufficient to pay a customer's claim; (2) retaining funds can provide greater protection; (3) the customer's property can be liened; and (4) the customer should get lien releases.

Owners of new single family residences are to receive notice of right to claim a lien from all who do not contract directly with the owner. The lien right applies to services, material, and equipment supplied after the notice is given. Such liens may only be satisfied from the amounts not yet paid to the prime contractor. The notice is to include a bold statement that it is intended to provide information necessary to manage the owner's construction project.

An unregistered contractors enforcement team is established with staff from the Department of Revenue, L&I, and Employment Security. The department is to increase consumer and contractor awareness through workshops, the internet hot lines, model contracts, and public service announcements. A contractor registration account is established with registration fees, penalties, and other sources. Expenditures from the account must be used for administration, enforcement and education functions.

The \$50 limitation on contractor registration fees is changed to \$100 (the registration period is now two years instead of one) and will be changed consistent with the fiscal growth factor.

Substitute Bill Compared to Original Bill: The bond amount in the substitute is \$12,000 and \$6,000 rather than the \$15,000 and \$8,000 of the original. The substitute removes provisions for a contractor advisory committee, as well as training and testing requirements. The substitute adds a provision that lien rights apply to services, materials, and equipment supplied after the lien notice is given. The substitute establishes an unregistered contractors enforcement team, a contractor registration account, and new consumer and contractor awareness functions for the department. Notice to customer requirements in the original bill were narrowed in the substitute.

Appropriation: None.

Fiscal Note: Requested on January 11, 2001.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The current system is inadequate to protect the consumer. The bond has not been increased since 1983. The fine amount needs increasing, too. The bill addresses industry-wide problems and will benefit everyone while treating contractors fairly.

Testimony Against: The bill doesn't go far enough; it needs to do more to get those that are dishonest. Unregistered contractors are the problem. The increased bond will put a burden on small contractors. Splitting the bond is a bad idea; consumers could become a target. The education and testing requirements will give homeowners a false sense of security. The bill doesn't require consumer education.

Testified: PRO: Patrick Woods; Sally Gustafson, Attorney General's Office; Dan Sexton, Washington State Association of Plumbers; Maury Hood; Tom Sullivan; Christopher Young; CON: Bob Gee, Western Building Material Association; Kerry Lawrence; Janice Lucas, NACM; Jeff Hansel, BIAW; Rick Slunaker, AGC; Gary Smith, IBA.