

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1055

Chapter 15, Laws of 2011

62nd Legislature
2011 Regular Session

CONTRACTORS--APPEALS PROCESS

EFFECTIVE DATE: 07/22/11

Passed by the House March 5, 2011
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 28, 2011
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved April 11, 2011, 2:17 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1055** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 11, 2011

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1055

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Labor & Workforce Development (originally sponsored by Representatives Hudgins, Green, McCoy, Eddy, Kenney, and Reykdal; by request of Department of Labor & Industries)

READ FIRST TIME 01/21/11.

1 AN ACT Relating to streamlining contractor appeals; and amending
2 RCW 18.27.250, 18.27.270, and 18.27.370.

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

4 **Sec. 1.** RCW 18.27.250 and 2007 c 436 s 14 are each amended to read
5 as follows:

6 A violation designated as an infraction under this chapter shall be
7 heard and determined by an administrative law judge of the office of
8 administrative hearings. If a party desires to contest the notice of
9 infraction, the party shall file a notice of appeal with the department
10 specifying the grounds of the appeal within (~~twenty~~) thirty days of
11 service of the infraction in a manner provided by this chapter. The
12 appeal must be accompanied by a certified check for two hundred
13 dollars, which shall be returned to the assessed party if the decision
14 of the department is not sustained following the final decision in the
15 appeal. If the final decision sustains the decision of the department,
16 the department must apply the two hundred dollars to the payment of the
17 expenses of the appeal, including costs charged by the office of
18 administrative hearings. The administrative law judge shall conduct

1 hearings in these cases at locations in the county where the infraction
2 occurred.

3 **Sec. 2.** RCW 18.27.270 and 2007 c 436 s 15 are each amended to read
4 as follows:

5 (1) A contractor who is issued a notice of infraction shall respond
6 within (~~(twenty)~~) thirty days of the date of issuance of the notice of
7 infraction.

8 (2) If the contractor named in the notice of infraction does not
9 elect to contest the notice of infraction, then the contractor shall
10 pay to the department, by check or money order, the amount of the
11 penalty prescribed for the infraction. When a response which does not
12 contest the notice of infraction is received by the department with the
13 appropriate penalty, the department shall make the appropriate entry in
14 its records.

15 (3) If the contractor named in the notice of infraction elects to
16 contest the notice of infraction, the contractor shall respond by
17 filing an appeal to the department in the manner specified in RCW
18 18.27.250.

19 (4) If any contractor issued a notice of infraction fails to
20 respond within the prescribed response period, the contractor shall be
21 guilty of a misdemeanor and prosecuted in the county where the
22 infraction occurred.

23 (5) After final determination by an administrative law judge that
24 an infraction has been committed, a contractor who fails to pay a
25 monetary penalty within thirty days, that is not waived pursuant to RCW
26 18.27.340(2), and who fails to file an appeal pursuant to RCW
27 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the
28 county where the infraction occurred.

29 (6) A contractor who fails to pay a monetary penalty within thirty
30 days after exhausting appellate remedies pursuant to RCW 18.27.310(4),
31 shall be guilty of a misdemeanor and be prosecuted in the county where
32 the infraction occurred.

33 (7) If a contractor who is issued a notice of infraction is a
34 contractor who has failed to register as a contractor under this
35 chapter, the contractor is subject to a monetary penalty per infraction
36 as provided in the schedule of penalties established by the department,

1 and each day the person works without becoming registered is a separate
2 infraction.

3 **Sec. 3.** RCW 18.27.370 and 2001 c 159 s 6 are each amended to read
4 as follows:

5 (1) ~~((If an unregistered contractor defaults in a payment, penalty,~~
6 ~~or fine due to the department, the director or the director's designee~~
7 ~~may issue a notice of assessment certifying the amount due. The notice~~
8 ~~must be served upon the unregistered contractor by mailing the notice~~
9 ~~to the unregistered contractor by certified mail to the unregistered~~
10 ~~contractor's last known address or served in the manner prescribed for~~
11 ~~the service of a summons in a civil action.)) A notice of infraction
12 issued under this chapter constitutes a notice of assessment for
13 purposes of this section.~~

14 (2) A notice of ~~((assessment))~~ infraction becomes final thirty days
15 from the date ~~((the notice was))~~ it is served upon the ~~((unregistered))~~
16 contractor unless ~~((a written request for reconsideration is filed with~~
17 ~~the department or an appeal is filed in a court of competent~~
18 ~~jurisdiction in the manner specified in RCW 34.05.510 through~~
19 ~~34.05.598. The request for reconsideration must set forth with~~
20 ~~particularity the reason for the unregistered contractor's request.~~
21 ~~The department, within thirty days after receiving a written request~~
22 ~~for reconsideration, may modify or reverse a notice of assessment, or~~
23 ~~may hold a notice of assessment in abeyance pending further~~
24 ~~investigation. If a final decision of a court in favor of the~~
25 ~~department is not appealed within the time allowed by law, then the~~
26 ~~amount of the unappealed assessment, or such amount of the assessment~~
27 ~~as is found due by the final decision of the court, is final)) a timely
28 appeal of the infraction is received as provided in RCW 18.27.270.~~

29 (3) When a notice of infraction becomes final, the director or the
30 director's designee may file with the clerk of any county within the
31 state, a warrant in the amount of the notice of ~~((assessment))~~
32 infraction, plus interest, penalties, and a filing fee of twenty
33 dollars. The clerk of the county in which the warrant is filed shall
34 immediately designate a superior court cause number for the warrant,
35 and the clerk shall cause to be entered in the judgment docket under
36 the superior court cause number assigned to the warrant, the name of
37 the ~~((unregistered))~~ contractor mentioned in the warrant, the amount of

1 payment, penalty, fine due on it, or filing fee, and the date when the
2 warrant was filed. The aggregate amount of the warrant as docketed
3 shall become a lien upon the title to, and interest in, all real and
4 personal property of the ((unregistered)) contractor against whom the
5 warrant is issued, the same as a judgment in a civil case docketed in
6 the office of the clerk. The sheriff shall proceed upon the warrant in
7 all respects and with like effect as prescribed by law with respect to
8 execution or other process issued against rights or property upon
9 judgment in a court of competent jurisdiction. The warrant so docketed
10 is sufficient to support the issuance of writs of garnishment in favor
11 of the state in a manner provided by law in case of judgment, wholly or
12 partially unsatisfied. The clerk of the court is entitled to a filing
13 fee which will be added to the amount of the warrant. A copy of the
14 warrant shall be mailed to the ((unregistered)) contractor within three
15 days of filing with the clerk.

16 (4) The director or the director's designee may issue to any
17 person, firm, corporation, other entity, municipal corporation,
18 political subdivision of the state, a public corporation, or any agency
19 of the state, a notice and order to withhold and deliver property of
20 any kind whatsoever when he or she has reason to believe that there is
21 in the possession of the person, firm, corporation, other entity,
22 municipal corporation, political subdivision of the state, public
23 corporation, or agency of the state, property that is or will become
24 due, owing, or belonging to ((an unregistered)) a contractor upon whom
25 a notice of ((assessment)) infraction has been served by the department
26 for payments, penalties, or fines due to the department. The effect of
27 a notice and order is continuous from the date the notice and order is
28 first made until the liability out of which the notice and order arose
29 is satisfied or becomes unenforceable because of lapse of time. The
30 department shall release the notice and order when the liability out of
31 which the notice and order arose is satisfied or becomes unenforceable
32 by reason of lapse of time and shall notify the person against whom the
33 notice and order was made that the notice and order has been released.

34 The notice and order to withhold and deliver must be served by the
35 sheriff of the county or by the sheriff's deputy, by certified mail,
36 return receipt requested, or by an authorized representative of the
37 director. A person, firm, corporation, other entity, municipal
38 corporation, political subdivision of the state, public corporation, or

1 agency of the state upon whom service has been made shall answer the
2 notice within twenty days exclusive of the day of service, under oath
3 and in writing, and shall make true answers to the matters inquired of
4 in the notice and order. Upon service of the notice and order, if the
5 party served possesses any property that may be subject to the claim of
6 the department, the party shall promptly deliver the property to the
7 director or the director's authorized representative. The director
8 shall hold the property in trust for application on the
9 (~~unregistered~~) contractor's indebtedness to the department, or for
10 return without interest, in accordance with a final determination of a
11 petition for review. In the alternative, the party shall furnish a
12 good and sufficient surety bond satisfactory to the director
13 conditioned upon final determination of liability. If a party served
14 and named in the notice fails to answer the notice within the time
15 prescribed in this section, the court may render judgment by default
16 against the party for the full amount claimed by the director in the
17 notice, together with costs. If a notice and order to withhold and
18 deliver wages is served upon (~~an unregistered~~) a contractor (~~and the~~
19 ~~property subject to it is wages~~) upon whom a notice of infraction has
20 been served, the (~~unregistered~~) contractor may assert in the answer
21 all exemptions provided for by chapter 6.27 RCW to which the wage
22 earner is entitled.

23 (5) In addition to the procedure for collection of a payment,
24 penalty, or fine due to the department as set forth in this section,
25 the department may recover civil penalties imposed under this chapter
26 in a civil action in the name of the department brought in a court of
27 competent jurisdiction of the county where the violation is alleged to
28 have occurred.

Passed by the House March 5, 2011.

Passed by the Senate March 28, 2011.

Approved by the Governor April 11, 2011.

Filed in Office of Secretary of State April 11, 2011.