
SUBSTITUTE SENATE BILL 6271

State of Washington**53rd Legislature****1994 Regular Session**

By Senate Committee on Labor & Commerce (originally sponsored by Senators Sutherland, Amondson, Moore, Erwin, Hargrove, Winsley and Quigley)

Read first time 02/04/94.

1 AN ACT Relating to construction services; amending RCW 18.27.020,
2 18.27.030, 18.27.040, 18.27.090, 18.27.100, 18.27.104, 18.27.114,
3 18.27.117, 18.27.340, 43.22.434, 43.22.480, 43.22.500, 84.36.400,
4 18.27.010, and 18.27.050; adding new sections to chapter 18.27 RCW;
5 creating a new section; prescribing penalties; and providing an
6 effective date.

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

8 NEW SECTION. **Sec. 1.** The directors of the departments of revenue,
9 licensing, and labor and industries, and the commissioner of employment
10 security shall develop a plan for maximum coordination and cooperation
11 of those departments in the effective enforcement of chapters 18.27,
12 82.04, and 82.08 RCW and Titles 50 and 51 RCW. This plan shall be
13 submitted to the legislature by December 30, 1994.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.27 RCW
15 to read as follows:

16 The department shall establish and maintain a toll-free telephone
17 number dedicated to receiving information regarding violations or
18 suspected violations of this chapter. Information shall be received

1 and promptly forwarded to compliance officers. Upon request, the
2 identity of callers may be kept confidential, but the department must
3 require callers to identify themselves in order for the information to
4 be received and forwarded to compliance officers.

5 **NEW SECTION.** **Sec. 3.** A new section is added to chapter 18.27 RCW
6 to read as follows:

7 All retail suppliers of building materials shall post in
8 conspicuous locations around the retail display area a poster briefly
9 describing the registration requirements of this chapter and that
10 purchasers of construction services should demand proof of registration
11 from contractors they employ, for their own protection.

12 **NEW SECTION.** **Sec. 4.** A new section is added to chapter 18.27 RCW
13 to read as follows:

14 (1) The department shall prepare, with the assistance of the
15 attorney general, a pamphlet on how to make a claim against the bond or
16 deposit required by RCW 18.27.040. The pamphlet shall include sample
17 forms of a summons and complaint and at least the following
18 information:

19 (a) How the summons and complaint are to be served and filed;
20 (b) The requirement that a lawsuit must be commenced before a
21 surety can make a payment to a claimant;

22 (c) That claims for under thirty-five thousand dollars are required
23 to be determined by arbitration, with right of appeal, and not by a
24 court trial;

25 (d) That arbitration is a less formal procedure than a courtroom
26 trial, usually occurring in the arbitrator's office under somewhat
27 relaxed rules of evidence, and that many cases are heard without either
28 party being represented by lawyers; and

29 (e) That if they do retain a lawyer they may recover attorneys'
30 fees up to the amount available under the bond or deposit.

31 (2) The pamphlet described in this section shall be offered by the
32 department and any issuer of the surety bonds required by this chapter
33 to anyone who requests information about making a claim against the
34 bond.

35 **NEW SECTION.** **Sec. 5.** A new section is added to chapter 18.27 RCW
36 to read as follows:

1 All advertising vendors who purvey advertising for contractors
2 shall require the person purchasing the advertising to supply his or
3 her name, address, telephone number and relationship to the contractor
4 being advertised. The advertising vendor shall promptly make available
5 to the department upon request the identity and all information
6 obtained regarding the person purchasing advertising that the
7 advertiser prints, publishes, or broadcasts.

8 **Sec. 6.** RCW 18.27.020 and 1993 c 454 s 6 are each amended to read
9 as follows:

10 (1) Every contractor shall register with the department.
11 (2) It is a misdemeanor for any contractor to:
12 (a) Advertise, offer to do work, submit a bid, or perform any work
13 as a contractor without being registered as required by this chapter;
14 (b) Advertise, offer to do work, submit a bid, or perform any work
15 as a contractor when the contractor's registration is suspended;
16 (c) Use a false or expired registration number in purchasing or
17 offering to purchase an advertisement for which a contractor
18 registration number is required; or
19 (d) Transfer a valid registration to an unregistered contractor or
20 allow an unregistered contractor to work under a registration issued to
21 another contractor.
22 (3) All misdemeanor actions under this chapter shall be prosecuted
23 in the county where the ((infraction)) violation occurs.
24 (4) The doctrine of substantial compliance has no place in the
25 application and construction of this section.

26 **Sec. 7.** RCW 18.27.030 and 1992 c 217 s 1 are each amended to read
27 as follows:

28 (1) An applicant for registration as a contractor shall submit an
29 application under oath upon a form to be prescribed by the director and
30 which shall include the following information pertaining to the
31 applicant:
32 (a) Employer social security number.
33 (b) As applicable: (i) The industrial insurance account number
34 covering employees domiciled in Washington; and (ii) evidence of
35 workers' compensation coverage in the applicant's state of domicile for
36 the applicant's employees working in Washington who are not domiciled
37 in Washington.

1 (c) Employment security department number.

2 (d) State excise tax registration number.

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

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

8 (g) The name and address of each partner if the applicant be a firm
9 or partnership, or the name and address of the owner if the applicant
10 be an individual proprietorship, or the name and address of the
11 corporate officers and statutory agent, if any, if the applicant be a
12 corporation. The information contained in such application shall be a
13 matter of public record and open to public inspection.

14 (h) That the applicant will meet and maintain his or her statutory
15 obligations with respect to state and local taxes, fees, industrial
16 insurance, employment security, and the requirements of this chapter.

17 (i) That the applicant has no unsatisfied judgments issuing from
18 any court or unpaid settlements in claims against the applicant arising
19 from the applicant's activities as a contractor.

20 (2) The department may verify the workers' compensation coverage
21 information provided by the applicant under subsection (1)(b) of this
22 section, including but not limited to information regarding the
23 coverage of an individual employee of the applicant. If coverage is
24 provided under the laws of another state, the department may notify the
25 other state that the applicant is employing employees in Washington.

26 (3) Registration shall be denied if the applicant has been
27 previously registered as a sole proprietor, partnership or corporation,
28 and was a principal or officer of the corporation, and if the applicant
29 has an unsatisfied final judgment in an action based on RCW 18.27.040
30 that incurred during a previous registration under this chapter or if
31 the applicant has taxes or another outstanding obligation due and owing
32 to the state of Washington or a local governmental entity, with either
33 the time for contesting the debt having elapsed or the debt has been
34 reduced to a final judgment with time for remaining appeals elapsed.

35 **Sec. 8.** RCW 18.27.040 and 1988 c 139 s 1 are each amended to read
36 as follows:

37 (1) Each applicant shall ~~((, at the time of applying for or renewing~~
38 ~~a certificate of registration, file with the department a surety bond~~

1 issued by a surety insurer who meets the requirements of chapter 48.28
2 RCW in a form acceptable to the department running to the state of
3 Washington if a general contractor, in the sum of six thousand dollars;
4 if a specialty contractor, in the sum of four thousand dollars,))
5 accompany the application for a certificate of registration with a
6 surety bond or continuation certificate issued by a surety insurer who
7 meets the requirements of chapter 48.28 RCW in the sum of ten thousand
8 dollars if the applicant is a general contractor and six thousand five
9 hundred dollars if the applicant is a specialty contractor, unless the
10 estimated annual volume of work expected by the applicant is in excess
11 of four hundred thousand dollars, then in the sum of fifteen thousand
12 dollars if the applicant is a general contractor and ten thousand
13 dollars if the applicant is a specialty contractor. If the applicant
14 has been found guilty of a violation or infraction of this chapter by
15 a court or an administrative law judge on two previous occasions,
16 appeals therefrom either having been exhausted or the time for appeals
17 having expired, the surety bonds required by this section shall be for
18 double the applicable amounts set forth in this subsection. The bond
19 shall have the state of Washington named as obligee with good and
20 sufficient surety in a form to be approved by the department. The bond
21 shall be continuous and may be canceled by the surety upon the surety
22 giving written notice to the director of its intent to cancel the bond.
23 A cancellation or revocation of the bond or withdrawal of the surety
24 from the bond suspends the registration issued to the principal until
25 a new bond or reinstatement notice has been filed and approved as
26 provided in this section. Whether or not the bond is renewed,
27 continued, reinstated, reissued, or otherwise extended, replaced, or
28 modified, including increases or decreases in the penal sum, it shall
29 be considered one continuous obligation, and the surety upon the bond
30 shall not be liable in an aggregate or cumulative amount exceeding the
31 penal sum set forth on the face of the bond. In no event shall the
32 penal sum, or a portion thereof, at two or more points in time be added
33 together in determining the surety's liability. The bond shall be
34 conditioned that the applicant will pay all persons performing labor,
35 including employee benefits, for the contractor, will pay all taxes and
36 contributions due to the state of Washington, and will pay all persons
37 furnishing labor or material or renting or supplying equipment to the
38 contractor and will pay all amounts that may be adjudged against the
39 contractor by reason of ((negligent or improper work or)) breach of

1 contract including negligent or improper work in the conduct of the
2 contracting business. A change in the name of a business or a change
3 in the type of business entity shall not impair a bond for the purposes
4 of this section so long as one of the original applicants for such bond
5 maintains partial ownership in the business covered by the bond.

6 (2) Any contractor registered as of ~~((the effective date of this~~
7 ~~1983 act))~~ July 1, 1994, who maintains such registration in accordance
8 with this chapter shall be in compliance with this chapter until the
9 next annual renewal of the contractor's certificate of registration.
10 At that time, the contractor shall provide a bond, cash deposit, or
11 other security deposit as required by this chapter and comply with all
12 of the other provisions of this chapter before the department shall
13 renew the contractor's certificate of registration.

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

1 (4) The surety upon the bond shall not be liable in an aggregate
2 amount in excess of the amount named in the bond nor for any monetary
3 penalty assessed pursuant to this chapter for an infraction. The
4 liability of the surety shall not cumulate where the bond has been
5 renewed, continued, reinstated, reissued or otherwise extended. The
6 surety upon the bond may, upon notice to the department and the
7 parties, tender to the clerk of the court having jurisdiction of the
8 action an amount equal to the claims thereunder or the amount of the
9 bond less the amount of judgments, if any, previously satisfied
10 therefrom and to the extent of such tender the surety upon the bond
11 shall be exonerated but if the actions commenced and pending at any one
12 time exceed the amount of the bond then unimpaired, claims shall be
13 satisfied from the bond in the following order:

14 (a) Employee labor, including employee benefits;

15 (b) Claims for breach of contract by a party to the construction
16 contract;

17 (c) Material ((and)), equipment, and subcontractor claims,
18 including labor, materials, and equipment;

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

20 (e) Any court costs, interest, and attorney's fees plaintiff may be
21 entitled to recover. A party who prevails in a claim against the bond
22 required by this section for breach of a construction contract shall be
23 entitled to costs and reasonable attorneys' fees. In no event,
24 however, will the combined costs, interest, attorneys' fees, and bond
25 loss exceed the penal limit of the bond.

26 The total amount paid from a bond or deposit, including costs and
27 attorneys' fees, to claimants other than those asserting a claim for
28 breach of the construction contract shall not exceed in the aggregate
29 six thousand dollars for a general contractor and four thousand dollars
30 for a specialty contractor.

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

33 (5) In the event that any final judgment shall impair the liability
34 of the surety upon the bond so furnished that there shall not be in
35 effect a bond undertaking in the full amount prescribed in this
36 section, the department shall suspend the registration of ((such)) the
37 contractor until the bond liability in the required amount unimpaired
38 by unsatisfied judgment claims shall have been furnished. If ((such))

1 the bond becomes fully impaired, a new bond must be furnished at the
2 increased rates prescribed by this section as now or hereafter amended.

3 (6) In lieu of the surety bond required by this section the
4 contractor may file with the department a deposit consisting of cash or
5 other security acceptable to the department, and equal to the face
6 amount of the surety bonds required by this section.

7 (7) Any person having filed and served a summons and complaint as
8 required by this section having an unsatisfied final judgment against
9 the registrant for any items referred to in this section may execute
10 upon the security held by the department by serving a certified copy of
11 the unsatisfied final judgment by registered or certified mail upon the
12 department within one year of the date of entry of such judgment. Upon
13 the receipt of service of ((such)) the certified copy the department
14 shall pay or order paid from the deposit, through the registry of the
15 superior court which rendered judgment, towards the amount of the
16 unsatisfied judgment. The priority of payment by the department shall
17 be the order of receipt by the department, but the department shall
18 have no liability for payment in excess of the amount of the deposit.

19 (8) The director may ((promulgate)) adopt rules necessary for the
20 proper administration of the security.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 18.27 RCW
22 to read as follows:

23 The construction industry administration account is created in the
24 office of the treasurer. All receipts from fees collected under this
25 chapter and RCW 43.22.340 through 43.22.505 shall be deposited into the
26 account. Moneys in the account may be spent only after appropriation.
27 Expenditures from the account may be used only for the administration
28 of this chapter and RCW 43.22.340 through 43.22.505.

29 **Sec. 10.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read
30 as follows:

31 This chapter shall not apply to:

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

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

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

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

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

12 (6) Any construction, alteration, improvement, or repair of
13 personal property((7)) except this chapter shall apply to all
14 mobile/manufactured housing. A mobile/manufactured home may be
15 installed, set up, or repaired by the registered or legal owner, by a
16 contractor ((licensed)) registered under this chapter, or by a
17 mobile/manufactured home retail dealer or manufacturer licensed under
18 chapter 46.70 RCW who shall warranty service and repairs under chapter
19 46.70 RCW;

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

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

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

1 (10) Any construction or operation incidental to the construction
2 and repair of irrigation and drainage ditches of regularly constituted
3 irrigation districts or reclamation districts; or to farming, dairying,
4 agriculture, viticulture, horticulture, or stock or poultry raising; or
5 to clearing or other work upon land in rural districts for fire
6 prevention purposes; except when any of the above work is performed by
7 a registered contractor;

8 (11) An owner who contracts for a project with a registered
9 contractor;

10 (12) Any person working on his or her own property, whether
11 occupied by him or her or not, and any person working on his or her
12 residence, whether owned by him or her or not but this exemption shall
13 not apply to any person otherwise covered by this chapter who
14 constructs an improvement on his or her own property with the intention
15 and for the purpose of selling the improved property. Sellers of
16 residential real property shall make full disclosure to bona fide
17 purchasers for value any repair or alteration which meet all of the
18 following criteria:

19 (a) Commenced or completed within the three years prior to entering
20 into the purchase and sale agreement;

21 (b) The work was done by the owner under this subsection;

22 (c) It was work that would have to have been done by a registered
23 contractor except that it was permitted by this owner's exception;

24 (d) The contract amount would have exceeded one thousand dollars;
25 and

26 (e) The work did not involve purely cosmetic work, such as
27 cleaning, painting, or landscaping;

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

31 (14) A licensed architect or civil or professional engineer acting
32 solely in his or her professional capacity, an electrician licensed
33 under the laws of the state of Washington, or a plumber licensed under
34 the laws of the state of Washington or licensed by a political
35 subdivision of the state of Washington while operating within the
36 boundaries of ((such)) the political subdivision. The exemption
37 provided in this subsection is applicable only when the licensee is
38 operating within the scope of his or her license;

1 (15) ((Any)) A person who engages in the activities herein
2 regulated as an employee of a registered contractor with wages as his
3 or her sole compensation or as an employee of a homeowner with wages
4 totaling no more than five hundred dollars as his or her sole
5 compensation. This five hundred dollar limitation shall not apply to
6 regular maintenance employees of homeowners' associations who as part
7 of their maintenance duties occasionally perform work covered by this
8 chapter;

9 (16) Contractors on highway projects who have been prequalified as
10 required by chapter 13 of the Laws of 1961, RCW 47.28.070, with the
11 department of transportation to perform highway construction,
12 reconstruction, or maintenance work.

13 **Sec. 11.** RCW 18.27.100 and 1993 c 454 s 3 are each amended to read
14 as follows:

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

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

24 (3)(a) The ((alphabetized listing of contractors appearing in the))
25 advertising section of telephone books or other directories and all
26 advertising that shows the contractor's name or address shall show the
27 contractor's current registration number((: PROVIDED, That)).
28 However, signs on motor vehicles subject to RCW 46.16.010 and on-
29 premise signs shall not constitute advertising as provided in this
30 section. All materials used to directly solicit business from retail
31 customers who are not businesses shall show the contractor's current
32 registration number. A contractor shall not use a false or expired
33 registration number in purchasing or offering to purchase an
34 advertisement for which a contractor registration number is required.
35 Advertising by airwave transmission shall not be subject to this
36 subsection if the person selling the advertisement obtains the
37 contractor's current registration number from the contractor.

1 (b) A person selling advertising should not accept advertisements
2 for which the contractor registration number is required under (a) of
3 this subsection if the contractor fails to provide the contractor
4 registration number.

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

8 (5) No contractor shall advertise that he or she is licensed when
9 he or she is only registered, as required by this chapter, unless he or
10 she is licensed under chapter 19.28 RCW.

11 (6) A contractor shall not falsify a registration number and use it
12 in connection with any solicitation or identification as a contractor.
13 All individual contractors and all partners, associates, agents,
14 salesmen, solicitors, officers, and employees of contractors shall use
15 their true names and addresses at all times while engaged in the
16 business or capacity of a contractor or activities related thereto.

17 ((+6)) (7)(a) The finding of a violation of this section by the
18 director at a hearing held in accordance with the Administrative
19 Procedure Act, chapter 34.05 RCW, shall subject the person committing
20 the violation to a penalty of not more than five thousand dollars as
21 determined by the director.

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

24 **Sec. 12.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to
25 read as follows:

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

35 (2) If the person to whom a citation is issued under subsection (1)
36 of this section notifies the department in writing that he or she
37 contests the citation, the department shall afford an opportunity for

1 an adjudicative proceeding under chapter 34.05 RCW, the Administrative
2 Procedure Act, within thirty days after receiving the notification.

3 **Sec. 13.** RCW 18.27.114 and 1988 c 182 s 1 are each amended to read
4 as follows:

5 (1) Until July 1, ((1989)) 1994, any contractor agreeing to perform
6 any contracting project: (a) For the repair, alteration, or
7 construction of four or fewer residential units or accessory structures
8 on such residential property when the bid or contract price totals one
9 thousand dollars or more; or (b) for the repair, alteration, or
10 construction of a commercial building when the bid or contract price
11 totals one thousand dollars or more but less than sixty thousand
12 dollars, must provide the customer with the following disclosure
13 statement prior to starting work on the project:

14 "NOTICE TO CUSTOMER

15 This contractor is registered with the state of Washington,
16 registration no., as a general/specialty contractor and
17 has posted with the state a bond or cash deposit of
18 \$6,000/\$4,000 for the purpose of satisfying claims against the
19 contractor for negligent or improper work or breach of contract
20 in the conduct of the contractor's business. This bond or cash
21 deposit may not be sufficient to cover a claim which might
22 arise from the work done under your contract. If any supplier
23 of materials used in your construction project or any employee
24 of the contractor or subcontractor is not paid by the
25 contractor or subcontractor on your job, your property may be
26 liened to force payment. If you wish additional protection, you
27 may request the contractor to provide you with original "lien
28 release" documents from each supplier or subcontractor on your
29 project. The contractor is required to provide you with
30 further information about lien release documents if you request
31 it. General information is also available from the department
32 of labor and industries."

33 (2) On and after July 1, ((1989)) 1994, any contractor agreeing to
34 perform any contracting project: (a) For the repair, alteration, or
35 construction of four or fewer residential units or accessory structures
36 on such residential property when the bid or contract price totals one
37 thousand dollars or more; or (b) for the repair, alteration, or

1 construction of a commercial building when the bid or contract price
2 totals one thousand dollars or more but less than sixty thousand
3 dollars, must provide the customer with the following disclosure
4 statement prior to starting work on the project:

"NOTICE TO CUSTOMER

This contractor is registered with the state of Washington, registration no. , as a general/specialty contractor and has posted with the state a bond or cash deposit of ~~(((\$6,000/\$4,000)) \$10,000/\$6,500 or \$15,000/\$10,000,~~ if applicable for the purpose of satisfying claims against the contractor for negligent or improper work or breach of contract in the conduct of the contractor's business. The expiration date of this contractor's registration is This bond or cash deposit may not be sufficient to cover a claim which might arise from the work done under your contract and other claimants may be entitled to a portion or all of the bond or cash deposit. You must file a lawsuit to recover any money from the bond or cash deposit. In addition to this legally required bond or cash deposit, you may want to negotiate with your contractor that he or she provide you with a bond that guarantees proper performance of the full contract. If any supplier of materials used in your construction project or any employee of the contractor or subcontractor is not paid by the contractor or subcontractor on your job, your property may be liened to force payment. If you wish additional protection, you may request the contractor to provide you with original "lien release" documents from each supplier or subcontractor on your project. The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the department of labor and industries."

(3) On and after July 1, ((1989)) 1994, a contractor subject to this section shall notify any consumer to whom notice is required under section (2) of this section if the contractor's registration has expired or is revoked or suspended by the department prior to completion or other termination of the contract with the consumer.

(4) No contractor subject to this section may bring or maintain any claim under chapter 60.04 RCW based on any contract to which this

1 section applies without alleging and proving that the contractor has
2 provided the customer with a copy of the disclosure statement as
3 required in subsection (1) or (2) of this section.

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

6 (6) Failure to comply with this section shall constitute an
7 infraction under the provisions of this chapter.

8 (7) The department shall produce model disclosure statements, and
9 public service announcements detailing the information needed to assist
10 contractors and contractors' customers to comply under this section.
11 As necessary, the department shall periodically update these education
12 materials.

13 **Sec. 14.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read
14 as follows:

15 The legislature finds that setting up and siting mobile/
16 manufactured homes must be done properly for the health, safety, and
17 enjoyment of the occupants. Therefore, when any of the following cause
18 a health and safety risk to the occupants of a mobile/manufactured
19 home, or severely hinder the use and enjoyment of the mobile/
20 manufactured home, a violation of RCW 19.86.020 shall have occurred:

21 (1) The mobile/manufactured home has been improperly installed by
22 a contractor ((licensed)) registered under chapter 18.27 RCW, or a
23 mobile/manufactured dealer or manufacturer licensed under chapter 46.70
24 RCW;

25 (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW
26 has not been fulfilled by the person or business giving the warranty;
27 and

28 (3) A bonding company that issues a bond under chapter 18.27 RCW or
29 chapter 46.70 RCW does not reasonably and professionally investigate
30 and resolve claims made by injured parties.

31 **Sec. 15.** RCW 18.27.340 and 1986 c 197 s 10 are each amended to
32 read as follows:

33 (1) A contractor found to have committed an infraction under RCW
34 18.27.200 shall be assessed a monetary penalty of not less than ((two))
35 five hundred dollars and not more than three thousand dollars.

36 (2) The ((administrative law judge)) director may waive, reduce, or
37 suspend the monetary penalty imposed for the infraction only upon a

1 showing of good cause that the penalty would be unduly burdensome to
2 the contractor.

3 (3) Monetary penalties collected under this chapter shall be
4 deposited in the general fund.

5 **Sec. 16.** RCW 43.22.434 and 1977 ex.s. c 21 s 5 are each amended to
6 read as follows:

7 (1) The director or the director's authorized representative may
8 conduct ((such)) inspections and investigations as may be necessary to
9 ((promulgate)) adopt or enforce mobile home, commercial coach,
10 recreational vehicle, factory built housing, and factory built
11 commercial structure rules adopted under the authority of this chapter
12 or to carry out the director's duties under this chapter.

13 (2) For purposes of enforcement of this chapter, persons duly
14 designated by the director upon presenting appropriate credentials to
15 the owner, operator, or agent in charge may:

16 (a) At reasonable times and without advance notice enter any
17 factory, warehouse, or establishment in which mobile homes, commercial
18 coaches, recreational vehicles, factory built housing, and factory
19 build commercial structures are manufactured, stored, or held for sale;
20 and

21 (b) At reasonable times, within reasonable limits, and in a
22 reasonable manner inspect any factory, warehouse, or establishment as
23 required to comply with the standards adopted by the secretary of
24 housing and urban development under the National Mobile Home
25 Construction and Safety Standards Act of 1974. Each inspection shall
26 be commenced and completed with reasonable promptness.

27 (3) In carrying out the inspections authorized by this section the
28 director may establish, by rule, and impose on mobile home
29 manufacturers, distributors, and dealers ((such)) reasonable fees as
30 may be necessary to offset the expenses incurred by the director in
31 conducting the inspections.

32 (4) All fees collected shall be deposited into the state treasury
33 to the credit of the construction industry administration account and
34 administered in accordance with section 9 of this act.

35 **Sec. 17.** RCW 43.22.480 and 1989 c 134 s 1 are each amended to read
36 as follows:

1 The department shall adopt and enforce rules that protect the
2 health, safety, and property of the people of this state by assuring
3 that all factory built housing or factory built commercial structures
4 are structurally sound and that the plumbing, heating, electrical, and
5 other components thereof are reasonably safe. The rules shall be
6 reasonably consistent with recognized and accepted principles of safety
7 and structural soundness, and in adopting the rules the department
8 shall consider, so far as practicable, the standards and specifications
9 contained in the uniform building, plumbing, and mechanical codes,
10 including the barrier free code and the Washington energy code as
11 adopted by the state building code council pursuant to chapter 19.27A
12 RCW, and the national electrical code, including the state rules as
13 adopted pursuant to chapter 19.28 RCW and published by the national
14 fire protection association.

15 The department shall set a schedule of fees which will cover the
16 costs incurred by the department in the administration and enforcement
17 of RCW 43.22.450 through 43.22.490. All fees collected shall be
deposited into the state treasury to the credit of the construction
industry administration account and administered in accordance with
section 9 of this act.

21 **Sec. 18.** RCW 43.22.500 and 1979 ex.s. c 67 s 2 are each amended to
22 read as follows:

23 The department of labor and industries, to defray the costs of
24 printing, reprinting, or distributing printed matter issued by the
25 department of labor and industries including, but not limited to, the
26 matters listed in RCW 43.22.505, may charge a fee for ((such)) the
27 publications in an amount which will reimburse the department for the
28 costs of printing, reprinting, and distributing ((such)) the
29 publications((~~: PROVIDED, That~~)). However, every person subject to
30 regulation by the department may upon request receive without charge
31 one copy per year of any publication printed pursuant to RCW 43.22.505
32 whenever such person is affected by any statute((r)) or rule ((or
33 regulation)) printed therein. All fees collected shall be deposited in
34 the state treasury to the credit of the ((appropriate fund or))
35 construction industry administration account and administered in
36 accordance with section 9 of this act.

1 **Sec. 19.** RCW 84.36.400 and 1972 ex.s. c 125 s 3 are each amended
2 to read as follows:

3 Any physical improvement to single family dwellings upon real
4 property shall be exempt from taxation for the three assessment years
5 subsequent to the completion of the improvement to the extent that the
6 improvement represents thirty percent or less of the value of the
7 original structure. A taxpayer desiring to obtain the exemption
8 granted by this section must file notice of his or her intention to
9 construct the improvement prior to the improvement being made on forms
10 prescribed by the department of revenue and furnished to the taxpayer
11 by the county assessor((~~: PROVIDED, That~~)). The notice must include
12 the registration number, or license number if applicable, of the
13 contractor or contractors the taxpayer has employed, or a notarized
14 declaration under oath that the taxpayer is doing all the work of
15 constructing the improvement under circumstances that meet the
16 requirements of RCW 18.27.090(12). This taxation exemption may not be
17 claimed if the taxpayer employs a person required to be registered
18 under chapter 18.27 RCW, and who is not so registered. This exemption
19 cannot be claimed more than once in a five-year period.

20 The department of revenue shall ((promulgate such)) adopt rules
21 ((and regulations)) as ((are)) necessary and convenient to properly
22 administer the provisions of this section.

23 NEW SECTION. **Sec. 20.** A new section is added to chapter 18.27 RCW
24 to read as follows:

25 (1) The director or the director's designee may revoke, suspend, or
26 refuse to issue or renew a certificate of registration if he or she
27 determines after notice and opportunity for hearing:

28 (a) That the registrant or applicant has failed to meet or has
29 violated the oath or affirmation made under RCW 18.27.030;

30 (b) That the insurance or surety bond requirements of this chapter
31 is not currently in effect;

32 (c) That the registrant has knowingly assisted an unregistered
33 person to act in violation of this chapter, which includes entering
34 into a contract with an unregistered person to perform activities
35 covered by this chapter;

36 (d) That the registrant or applicant has failed to pay in full a
37 final judgment against him or her entered by a court of competent

1 jurisdiction in a claim arising out of activities covered by this
2 chapter; or

3 (e) That the registrant has performed work as a contractor without
4 a construction permit where the permit was required, and the work
5 resulted in damage to another, or created an unsafe condition. For the
6 purposes of this section, "construction permit" includes a building
7 permit, electrical permit, mechanical permit, or plumbing permit.

8 (2) In addition to other remedies, the director or the director's
9 designee, through the attorney general or county prosecutor may apply
10 to superior court for an injunction restraining a person from violating
11 the provisions of this chapter.

12 (3) The hearing provided for in this section prior to revocation,
13 suspension, or refusal to issue or renew a certificate of registration
14 shall be conducted by an administrative law judge under chapter 34.05
15 RCW, part IV, with a right to judicial review as provided in chapter
16 34.05 RCW, part V.

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

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

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

33 (2) "General contractor" means a contractor whose business
34 operations require the use of more than two unrelated building trades
35 or crafts whose work the contractor shall superintend or do in whole or
36 in part. "General contractor" shall not include an individual who does
37 all work personally without employees or other "specialty contractors"

1 as defined herein. The terms "general contractor" and "builder" are
2 synonymous.

3 (3) "Specialty contractor" means a contractor whose operations as
4 such do not fall within the foregoing definition of "general
5 contractor".

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

7 (5) "Director" means the director of the department of labor and
8 industries.

9 (6) "Verification" means the receipt and duplication by the city,
10 town, or county of a contractor registration card that is current on
11 its face, or checking the department's contractor registration base.

12 **Sec. 22.** RCW 18.27.050 and 1987 c 303 s 1 are each amended to read
13 as follows:

14 (1) At the time of registration and subsequent reregistration, the
15 applicant shall furnish insurance or financial responsibility in the
16 form of an assigned account in the amount of ((twenty)) fifty thousand
17 dollars for injury or damages to property, and ((fifty)) one hundred
18 thousand dollars for injury or damage including death to any one
19 person, and ((one)) two hundred thousand dollars for injury or damage
20 including death to more than one person or financial responsibility to
21 satisfy these amounts.

22 (2) Failure to maintain insurance or financial responsibility
23 relative to the contractor's activities shall be cause to suspend or
24 deny the contractor his or her or their registration.

25 (3)(a) Proof of financial responsibility authorized in this section
26 may be given by providing, in the amount required by subsection (1) of
27 this section, an assigned account acceptable to the department. The
28 assigned account shall be held by the department to satisfy any
29 execution on a judgment issued against the contractor for damage to
30 property or injury or death to any person occurring in the contractor's
31 contracting operations, according to the provisions of the assigned
32 account agreement. The department shall have no liability for payment
33 in excess of the amount of the assigned account.

34 (b) The assigned account filed with the director as proof of
35 financial responsibility shall be canceled at the expiration of three
36 years after:

37 (i) The contractor's registration has expired or been revoked; or

1 (ii) The contractor has furnished proof of insurance as required by
2 subsection (1) of this section;
3 if, in either case, no legal action has been instituted against the
4 contractor or on the account at the expiration of the three-year
5 period.

6 (c) If a contractor chooses to file an assigned account as
7 authorized in this section, the contractor shall, on any contracting
8 project, notify each person with whom the contractor enters into a
9 contract or to whom the contractor submits a bid that the contractor
10 has filed an assigned account in lieu of insurance and that recovery
11 from the account for any claim against the contractor for property
12 damage or personal injury or death occurring in the project requires
13 the claimant to obtain a court judgment.

14 NEW SECTION. **Sec. 23.** This act shall take effect July 1, 1994.

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