

# SENATE BILL REPORT

## SB 5795

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As Passed Senate, March 4, 2019

**Title:** An act relating to construction contractors but only with respect to providing financial recourse to harmed consumers not to include a warranty and creating a work group.

**Brief Description:** Increasing contractor bonding requirements.

**Sponsors:** Senators Zeiger and Saldaña; by request of Department of Labor & Industries.

**Brief History:**

**Committee Activity:** Labor & Commerce: 2/19/19 [DP].

**Floor Activity:**

Passed Senate: 3/04/19, 48-0.

### Brief Summary of Bill

- Allows the director of the Department of Labor and Industries (L&I) to increase a contractor's bond amount by up to three times the normal amount if the applicant has had in the past five years one, rather than three, judgments involving a single-family dwelling.
- Requires L&I to convene a work group to consider additional consumer safeguards including bond amounts, additional criteria for contractors, changes to options for consumer recovery, and other matters.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Walsh and Wellman.

**Staff:** Jarrett Sacks (786-7448)

**Background:** General and specialty contractors must register with the L&I. A general contractor works in more than one building trade or craft upon a single job or project or under a single building permit. A specialty contractor works in one trade or craft. To register as a general or specialty contractor, an applicant must file a bond and proof of insurance and pay a fee with the submission of the application.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The bond amount is \$12,000 for a general contractor and \$6,000 for a specialty contractor. The bond is conditioned upon the contractor paying: persons performing labor for the contractor, persons furnishing material or renting or supplying equipment to the contractor, amounts adjudged against the contractor for breach of contract, and taxes due to the state. A contractor may file an assigned savings account in lieu of a bond.

The director of L&I may require an applicant applying to renew, reinstate, or apply for a new registration to file a bond of up to three times the normal amount if the director determines that the applicant has had, in the past five years, three final judgments involving a residential single-family dwelling on two or more different structures.

**Summary of Bill:** The director's authority to require a higher bond amount is modified to allow the director to require up to three times the normal bond amount if there has been one judgment against the contractor involving a residential single-family dwelling.

L&I must convene a work group by August 1, 2019, to consider additional safeguards for consumers who engage contractors. Work group participants must include:

- L&I staff;
- large and small contractors that primarily contract with residential homeowners, those that build new and rehabilitate residences, and other interested contractors;
- surety bond companies;
- realtors or their representatives;
- workers and their representatives or both;
- representatives from the consumer protection division of the Office of the Attorney General;
- consumers and consumer advocates or both; and
- local building officials.

The work group must submit a report with recommendations to L&I and, if applicable, to the appropriate committees of the Legislature by June 30, 2020. The report must address whether:

- bond amounts are sufficient and appropriate to protect consumers, workers, and suppliers, and meet tax obligations;
- additional criteria for contractors would provide a greater level of protection;
- strategies to discourage the transfer of a business to a different entity to evade penalties or judgements should be implemented;
- any other registration requirements or options for consumer recovery should be changed to increase protections for consumers; and
- incentives to adopt industry best practices would increase consumer protection.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: There is currently little legal accountability for contractors who do subpar work. The bond limits are too low and bad contractors can declare bankruptcy and start a new company. There needs to be a better way for consumers to protect themselves. The bill was the result of stakeholder work between L&I, business, and labor.

OTHER: The limited approach of the bill is good, but only allowing one strike under the bill is too harsh. It is important to punish bad contractors while protecting the honest ones.

**Persons Testifying:** PRO: Senator Hans Zeiger, Prime Sponsor; Tammy Fellin, L&I; Jake Williams, citizen; Mitchell Harris, citizen.

OTHER: Tom Kwieciak, Building Industry Association of Washington.

**Persons Signed In To Testify But Not Testifying:** No one.