

2 SHB 1630 - S COMM AMD

3 By Committee on Labor, Commerce & Trade

4 ADOPTED 4/12/95

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 18.27 RCW
8 to read as follows:

9 The purposes of this chapter are to protect the general welfare of
10 the residents of this state who purchase construction services and the
11 general economic welfare of business in compliance with this chapter,
12 to enhance state revenue collections, and to promote compliance and
13 enforcement of this chapter by providing swift and meaningful penalties
14 for those failing to register as required by this chapter.

15 This chapter shall be strictly enforced to accomplish these
16 purposes. Therefore, the doctrine of substantial compliance shall not
17 be used by the department in the application and construction of this
18 chapter. Anyone engaged in the activities of a contractor is presumed
19 to know the requirements of this chapter.

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

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

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

1 includes any person, firm, or corporation covered by this subsection,
2 whether or not registered as required under this chapter.

3 (2) "General contractor" means a contractor whose business
4 operations require the use of more than two unrelated building trades
5 or crafts whose work the contractor shall superintend or do in whole or
6 in part. "General contractor" shall not include an individual who does
7 all work personally without employees or other "specialty contractors"
8 as defined (~~herein~~) in this section. The terms "general contractor"
9 and "builder" are synonymous.

10 (3) "Specialty contractor" means a contractor whose operations (~~as~~
11 ~~such~~) do not fall within the foregoing definition of "general
12 contractor".

13 (4) "Unregistered contractor" means a person, firm, or corporation
14 doing work as a contractor without being registered in compliance with
15 this chapter. "Unregistered contractor" includes contractors whose
16 registration is expired for more than thirty days beyond the renewal
17 date or has been suspended.

18 (5) "Department" means the department of labor and industries.

19 (~~(5)~~) (6) "Director" means the director of the department of
20 labor and industries.

21 (~~(6)~~) (7) "Verification" means the receipt and duplication by the
22 city, town, or county of a contractor registration card that is current
23 on its face.

24 **Sec. 3.** RCW 18.27.020 and 1993 c 454 s 6 are each amended to read
25 as follows:

26 (1) Every contractor shall register with the department.

27 (2) It is a misdemeanor for any contractor to:

28 (a) Advertise, offer to do work, submit a bid, or perform any work
29 as a contractor without being registered as required by this chapter;

30 (b) Advertise, offer to do work, submit a bid, or perform any work
31 as a contractor when the contractor's registration is suspended or
32 revoked;

33 (c) Use a false or expired registration number in purchasing or
34 offering to purchase an advertisement for which a contractor
35 registration number is required; (~~or~~)

36 (d) Transfer a valid registration to an unregistered contractor or
37 allow an unregistered contractor to work under a registration issued to
38 another contractor; or

1 (e) Knowingly subcontract work to a person, firm, or corporation
2 not registered as required under this chapter. However, a contractor
3 does not commit a misdemeanor under this section if a subcontractor
4 becomes unregistered during the course of its work without the
5 knowledge of the contractor.

6 (3) All misdemeanor actions under this chapter shall be prosecuted
7 in the county where the (~~infraction~~) violation occurs.

8 (4) The director by rule shall establish a two-year audit and
9 monitoring program for a contractor not registered under this chapter
10 who becomes registered after receiving an infraction or conviction
11 under this chapter as an unregistered contractor. The director shall
12 notify the department of revenue and the employment security department
13 of such infractions or convictions and shall cooperate with such
14 departments in determining whether any taxes or registration, license,
15 or other fees or penalties are owed the state.

16 **Sec. 4.** RCW 18.27.030 and 1992 c 217 s 1 are each amended to read
17 as follows:

18 (1) An applicant for registration as a contractor shall submit an
19 application under oath upon a form to be prescribed by the director and
20 which shall include the following information pertaining to the
21 applicant:

22 (a) Employer social security number.

23 (b) As applicable: (i) The industrial insurance account number
24 covering employees domiciled in Washington; and (ii) evidence of
25 workers' compensation coverage in the applicant's state of domicile for
26 the applicant's employees working in Washington who are not domiciled
27 in Washington.

28 (c) Employment security department number.

29 (d) State excise tax registration number.

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

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

35 (g) The name and address of each partner if the applicant be a firm
36 or partnership, or the name and address of the owner if the applicant
37 be an individual proprietorship, or the name and address of the
38 corporate officers and statutory agent, if any, if the applicant be a

1 corporation. The information contained in such application shall be a
2 matter of public record and open to public inspection.

3 (2) The department may verify the workers' compensation coverage
4 information provided by the applicant under subsection (1)(b) of this
5 section, including but not limited to information regarding the
6 coverage of an individual employee of the applicant. If coverage is
7 provided under the laws of another state, the department may notify the
8 other state that the applicant is employing employees in Washington.

9 (3) The department shall deny an application for registration
10 ((shall be denied)) if the applicant has been previously registered as
11 a sole proprietor, partnership, or corporation((, and was a principal
12 or officer of the corporation,)) and ((if)) the applicant has an
13 unsatisfied final judgment in an action based on RCW 18.27.040((,))
14 that was incurred during a previous registration under this chapter.
15 The department shall check for unsatisfied judgments under RCW
16 18.27.040 and a history of violations and misdemeanors when application
17 is made. A history of violations, revoked and suspended registrations
18 or licenses, or misdemeanors relating to the construction business may
19 be grounds for denial.

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

22 (1) Each applicant shall~~((, at the time of applying for or renewing~~
23 ~~a certificate of registration, file with the department a surety bond~~
24 ~~issued by a surety insurer who meets the requirements of chapter 48.28~~
25 ~~RCW in a form acceptable to the department running to the state of~~
26 ~~Washington if a general contractor, in the sum of six thousand dollars;~~
27 ~~if a specialty contractor, in the sum of four thousand dollars,))~~
28 accompany the application for a certificate of registration with a
29 surety bond or continuation certificate issued by a surety insurer who
30 meets the requirements of chapter 48.28 RCW in the sum of fifteen
31 thousand dollars if the applicant is a general contractor and ten
32 thousand dollars if the applicant is a specialty contractor. The bond
33 shall have the state of Washington named as obligee with good and
34 sufficient surety in a form to be approved by the department. The bond
35 shall be continuous and may be canceled by the surety upon the surety
36 giving written notice to the director of its intent to cancel the bond.
37 A cancellation or revocation of the bond or withdrawal of the surety
38 from the bond suspends the registration issued to the registrant until

1 a new bond or reinstatement notice has been filed and approved as
2 provided in this section. Whether or not the bond is renewed,
3 continued, reinstated, reissued, or otherwise extended, replaced, or
4 modified, including increases or decreases in the penal sum, it shall
5 be considered one continuous obligation, and the surety upon the bond
6 shall not be liable in an aggregate or cumulative amount exceeding the
7 penal sum set forth on the face of the bond. In no event shall the
8 penal sum, or a portion thereof, at two or more points in time be added
9 together in determining the surety's liability. The bond shall be
10 conditioned that the applicant will pay all persons performing labor,
11 including employee benefits, for the contractor, will pay all taxes and
12 contributions due to the state of Washington, and will pay all persons
13 furnishing labor or material or renting or supplying equipment to the
14 contractor and will pay all amounts that may be adjudged against the
15 contractor by reason of ((~~negligent or improper work or~~)) breach of
16 contract including negligent or improper work in the conduct of the
17 contracting business. A change in the name of a business or a change
18 in the type of business entity shall not impair a bond for the purposes
19 of this section so long as one of the original applicants for such bond
20 maintains partial ownership in the business covered by the bond.

21 (2) Any contractor registered as of ((~~the effective date of this~~
22 ~~1983 act~~)) July 1, 1995, who maintains such registration in accordance
23 with this chapter shall be in compliance with this chapter until the
24 next annual renewal of the contractor's certificate of registration.
25 At that time, the contractor shall provide a bond, cash deposit, or
26 other security deposit as required by this chapter and comply with all
27 of the other provisions of this chapter before the department shall
28 renew the contractor's certificate of registration.

29 (3) Any person, firm, or corporation having a claim against the
30 contractor for any of the items referred to in this section may bring
31 suit upon ((~~such~~)) the bond or deposit in the superior court of the
32 county in which the work was done or of any county in which
33 jurisdiction of the contractor may be had. The surety issuing the bond
34 shall be named as a party to any suit upon the bond. Action upon
35 ((~~such~~)) the bond or deposit shall be commenced by filing the summons
36 and complaint with the clerk of the appropriate superior court within
37 one year from the date of expiration of the certificate of registration
38 in force at the time the claimed labor was performed and benefits
39 accrued, taxes and contributions owing the state of Washington became

1 due, materials and equipment were furnished, or the claimed contract
2 work was completed or abandoned. Service of process in an action
3 against the contractor, the contractor's bond, or the deposit shall be
4 exclusively by service upon the department. Three copies of the
5 summons and complaint and a fee of ten dollars to cover the handling
6 costs shall be served by registered or certified mail upon the
7 department at the time suit is started and the department shall
8 maintain a record, available for public inspection, of all suits so
9 commenced. Service is not complete until the department receives the
10 ten-dollar fee and three copies of the summons and complaint. ((Sueh))
11 The service shall constitute service on the registrant and the surety
12 for suit upon the bond or deposit and the department shall transmit the
13 summons and complaint or a copy thereof to the registrant at the
14 address listed in his or her application and to the surety within
15 forty-eight hours after it shall have been received.

16 (4) The surety upon the bond shall not be liable in an aggregate
17 amount in excess of the amount named in the bond nor for any monetary
18 penalty assessed pursuant to this chapter for an infraction. The
19 liability of the surety shall not cumulate where the bond has been
20 renewed, continued, reinstated, reissued or otherwise extended. The
21 surety upon the bond may, upon notice to the department and the
22 parties, tender to the clerk of the court having jurisdiction of the
23 action an amount equal to the claims thereunder or the amount of the
24 bond less the amount of judgments, if any, previously satisfied
25 therefrom and to the extent of such tender the surety upon the bond
26 shall be exonerated but if the actions commenced and pending at any one
27 time exceed the amount of the bond then unimpaired, claims shall be
28 satisfied from the bond in the following order:

- 29 (a) Employee labor, including employee benefits;
30 (b) Claims for breach of contract by a party to the construction
31 contract;
32 (c) Material and equipment;
33 (d) Taxes and contributions due the state of Washington;
34 (e) Any court costs, interest, and attorney's fees plaintiff may be
35 entitled to recover. The prevailing party in a bond claim action
36 against the contractor and the contractor's bond, as required by this
37 section, for breach of a construction contract is entitled to costs,
38 interest, and reasonable attorneys' fees. In no event, however, may

1 the combined costs, interest, attorneys' fees, and bond loss exceed the
2 penal limit of the bond.

3 The total amount paid from a bond or deposit to claimants other
4 than those asserting a claim for breach of construction contract shall
5 not exceed in the aggregate six thousand dollars for a general
6 contractor and four thousand dollars for a specialty contractor.

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

9 (5) ~~((In the event that any))~~ If a final judgment ~~((shall))~~ impairs
10 the liability of the surety upon the bond so furnished that there shall
11 not be in effect a bond undertaking in the full amount prescribed in
12 this section, the department shall suspend the registration of ~~((such))~~
13 the contractor until the bond liability in the required amount
14 unimpaired by unsatisfied judgment claims ~~((shall have been))~~ is
15 furnished. If ~~((such))~~ the bond becomes fully impaired, a new bond
16 must be furnished at the ~~((increased))~~ rates prescribed by this section
17 ~~((as now or hereafter amended)).~~

18 (6) In lieu of the surety bond required by this section the
19 contractor may file with the department a deposit consisting of cash or
20 other security acceptable to the department.

21 (7) Any person having filed and served a summons and complaint as
22 required by this section having an unsatisfied final judgment against
23 the registrant for any items referred to in this section may execute
24 upon the security held by the department by serving a certified copy of
25 the unsatisfied final judgment by registered or certified mail upon the
26 department within one year of the date of entry of such judgment. Upon
27 the receipt of service of ~~((such))~~ the certified copy the department
28 shall pay or order paid from the deposit, through the registry of the
29 superior court which rendered judgment, towards the amount of the
30 unsatisfied judgment. The priority of payment by the department shall
31 be the order of receipt by the department, but the department shall
32 have no liability for payment in excess of the amount of the deposit.

33 (8) The director may ~~((promulgate))~~ adopt rules necessary for the
34 proper administration of the security.

35 **Sec. 6.** RCW 18.27.060 and 1983 1st ex.s. c 2 s 19 are each amended
36 to read as follows:

37 (1) A certificate of registration shall be valid for one year and
38 shall be renewed on or before the expiration date. The department

1 shall issue to the applicant a certificate of registration upon
2 compliance with the registration requirements of this chapter.

3 (2) If the department approves an application, it shall issue a
4 certificate of registration to the applicant. The certificate shall be
5 valid for:

6 (a) One year;

7 (b) Until the bond expires; or

8 (c) Until the insurance expires, whichever comes first. The
9 department shall place the expiration date on the certificate.

10 (3) A contractor may supply a short-term bond or insurance policy
11 to bring its registration period to the full one year.

12 (4) If a contractor's surety bond or other security has an
13 unsatisfied judgment against it or is canceled, or if the contractor's
14 insurance policy is canceled, the contractor's registration shall be
15 automatically suspended on the effective date of the impairment or
16 cancellation. The department shall give notice of the suspension to
17 the contractor by certified and by first class mail within forty-eight
18 hours after suspension.

19 (5) Renewal of registration shall be considered valid upon the date
20 the department receives the required fee and proof of bond and
21 liability insurance, if sent by certified mail or other means requiring
22 proof of delivery. The receipt or proof of delivery shall serve as the
23 contractor's proof of renewed registration until he or she receives
24 verification from the department.

25 **Sec. 7.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read
26 as follows:

27 This chapter (~~shall~~) does not apply to:

28 (1) An authorized representative of the United States government,
29 the state of Washington, or any incorporated city, town, county,
30 township, irrigation district, reclamation district, or other municipal
31 or political corporation or subdivision of this state;

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

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

37 (4) Any construction, repair, or operation incidental to the
38 discovering or producing of petroleum or gas, or the drilling, testing,

1 abandoning, or other operation of any petroleum or gas well or any
2 surface or underground mine or mineral deposit when performed by an
3 owner or lessee;

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

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

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

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

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

35 (10) Any construction or operation incidental to the construction
36 and repair of irrigation and drainage ditches of regularly constituted
37 irrigation districts or reclamation districts; or to farming, dairying,
38 agriculture, viticulture, horticulture, or stock or poultry raising; or
39 to clearing or other work upon land in rural districts for fire

1 prevention purposes; except when any of the above work is performed by
2 a registered contractor;

3 (11) An owner who contracts for a project with a registered
4 contractor;

5 (12) Any person working on his or her own property, whether
6 occupied by him or her or not, and any person working on his or her
7 personal residence, whether owned by him or her or not but this
8 exemption shall not apply to any person otherwise covered by this
9 chapter who constructs an improvement on his or her own property with
10 the intention and for the purpose of selling the improved property;

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

14 (14) A licensed architect or civil or professional engineer acting
15 solely in his or her professional capacity, an electrician licensed
16 under the laws of the state of Washington, or a plumber licensed under
17 the laws of the state of Washington or licensed by a political
18 subdivision of the state of Washington while operating within the
19 boundaries of such political subdivision. The exemption provided in
20 this subsection is applicable only when the licensee is operating
21 within the scope of his or her license;

22 (15) Any person who engages in the activities herein regulated as
23 an employee of a registered contractor with wages as his or her sole
24 compensation or as an employee with wages as his or her sole
25 compensation;

26 (16) Contractors on highway projects who have been prequalified as
27 required by (~~chapter 13 of the Laws of 1961,~~) RCW 47.28.070, with the
28 department of transportation to perform highway construction,
29 reconstruction, or maintenance work.

30 **Sec. 8.** RCW 18.27.100 and 1993 c 454 s 3 are each amended to read
31 as follows:

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

37 (2) All advertising and all contracts, correspondence, cards,
38 signs, posters, papers, and documents which show a contractor's name or

1 address shall show the contractor's name or address as registered under
2 this chapter.

3 (3)(a) (~~The alphabetized listing of contractors appearing in the~~
4 ~~advertising section of telephone books or other directories and~~) All
5 advertising that shows the contractor's name or address shall show the
6 contractor's current registration number. The registration number may
7 be omitted in an alphabetized listing of registered contractors stating
8 only the name, address, and telephone number: PROVIDED, That signs on
9 motor vehicles subject to RCW 46.16.010 and on-premise signs shall not
10 constitute advertising as provided in this section. All materials used
11 to directly solicit business from retail customers who are not
12 businesses shall show the contractor's current registration number. A
13 contractor shall not use a false or expired registration number in
14 purchasing or offering to purchase an advertisement for which a
15 contractor registration number is required. Advertising by airwave
16 transmission shall not be subject to this subsection (3)(a) (~~if the~~
17 ~~person selling the advertisement obtains the contractor's current~~
18 ~~registration number from the contractor~~)).

19 (b) (~~A person selling advertising should not accept advertisements~~
20 ~~for which the contractor registration number is required under (a) of~~
21 ~~this subsection if the contractor fails to provide the contractor~~
22 ~~registration number.)) The director may issue a subpoena to any person
23 or entity selling any advertising subject to this section for the name,
24 address, and telephone number provided to the seller of the advertising
25 by the purchaser of the advertising. The subpoena must have enclosed
26 a stamped, self-addressed envelope and blank form to be filled out by
27 the seller of the advertising. If the seller of the advertising has
28 the information on file, the seller shall, within a reasonable time,
29 return the completed form to the department. The subpoena must be
30 issued within forty-eight hours after the expiration of the issue or
31 publication containing the advertising or after the broadcast of the
32 advertising. The good-faith compliance by a seller of advertising with
33 a written request of the department for information concerning the
34 purchaser of advertising shall constitute a complete defense to any
35 civil or criminal action brought against the seller of advertising
36 arising from such compliance. Advertising by airwave or electronic
37 transmission is subject to this subsection (3)(b).~~

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

4 (5) A contractor shall not falsify a registration number and use
5 it, or use an expired registration number, in connection with any
6 solicitation or identification as a contractor. All individual
7 contractors and all partners, associates, agents, salesmen, solicitors,
8 officers, and employees of contractors shall use their true names and
9 addresses at all times while engaged in the business or capacity of a
10 contractor or activities related thereto.

11 (6) Any advertising by a person, firm, or corporation soliciting
12 work as a contractor when that person, firm, or corporation is not
13 registered pursuant to this chapter is a violation of this chapter.

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

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

21 **Sec. 9.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to read
22 as follows:

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

32 (2) If the person to whom a citation is issued under subsection (1)
33 of this section notifies the department in writing that he or she
34 contests the citation, the department shall afford an opportunity for
35 an adjudicative proceeding under chapter 34.05 RCW(~~(7—the~~
36 ~~Administrative Procedure Act,~~) within thirty days after receiving the
37 notification.

1 has posted with the state a bond or cash deposit of
2 \$6,000/\$4,000 for the purpose of satisfying claims against the
3 contractor for negligent or improper work or breach of contract
4 in the conduct of the contractor's business. This bond or cash
5 deposit may not be sufficient to cover a claim which might
6 arise from the work done under your contract. If any supplier
7 of materials used in your construction project or any employee
8 of the contractor or subcontractor is not paid by the
9 contractor or subcontractor on your job, your property may be
10 liened to force payment. If you wish additional protection, you
11 may request the contractor to provide you with original "lien
12 release" documents from each supplier or subcontractor on your
13 project. The contractor is required to provide you with
14 further information about lien release documents if you request
15 it. General information is also available from the department
16 of labor and industries."

17 (2) ~~On and after July 1, 1989,~~) Any contractor agreeing to perform
18 any contracting project: (a) For the repair, alteration, or
19 construction of four or fewer residential units or accessory structures
20 on such residential property when the bid or contract price totals one
21 thousand dollars or more; or (b) for the repair, alteration, or
22 construction of a commercial building when the bid or contract price
23 totals one thousand dollars or more but less than sixty thousand
24 dollars, must provide the customer with the following disclosure
25 statement prior to starting work on the project:

26 "NOTICE TO CUSTOMER

27 This contractor is registered with the state of Washington,
28 registration no. . . . , as a general/specialty contractor and
29 has posted with the state a bond or cash deposit of
30 \$6,000/\$4,000 for the purpose of satisfying claims against the
31 contractor for negligent or improper work or breach of contract
32 in the conduct of the contractor's business. The expiration
33 date of this contractor's registration is This
34 bond or cash deposit may not be sufficient to cover a claim
35 which might arise from the work done under your contract. If
36 any supplier of materials used in your construction project or
37 any employee of the contractor or subcontractor is not paid by
38 the contractor or subcontractor on your job, your property may

1 be liened to force payment. If you wish additional protection,
2 you may request the contractor to provide you with original
3 "lien release" documents from each supplier or subcontractor on
4 your project. The contractor is required to provide you with
5 further information about lien release documents if you request
6 it. General information is also available from the department
7 of labor and industries."

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

13 ~~((+4))~~ (3) No contractor subject to this section may bring or
14 maintain any lien claim under chapter 60.04 RCW based on any contract
15 to which this section applies without alleging and proving that the
16 contractor has provided the customer with a copy of the disclosure
17 statement as required in subsection (1) ~~((or (2)))~~ of this section.

18 ~~((+5))~~ (4) This section does not apply to contracts authorized
19 under chapter 39.04 RCW or to contractors contracting with other
20 contractors.

21 ~~((+6))~~ (5) Failure to comply with this section shall constitute an
22 infraction under the provisions of this chapter.

23 ~~((+7))~~ (6) The department shall produce model disclosure
24 statements, and public service announcements detailing the information
25 needed to assist contractors and contractors' customers to comply under
26 this section. As necessary, the department shall periodically update
27 these education materials.

28 **Sec. 12.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read
29 as follows:

30 The legislature finds that setting up and siting mobile/
31 manufactured homes must be done properly for the health, safety, and
32 enjoyment of the occupants. Therefore, when any of the following cause
33 a health and safety risk to the occupants of a mobile/manufactured
34 home, or severely hinder the use and enjoyment of the mobile/
35 manufactured home, a violation of RCW 19.86.020 shall have occurred:

36 (1) The mobile/manufactured home has been improperly installed by
37 a contractor ~~((licensed))~~ registered under chapter 18.27 RCW, or a

1 mobile/manufactured dealer or manufacturer licensed under chapter 46.70
2 RCW;

3 (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW
4 has not been fulfilled by the person or business giving the warranty;
5 and

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

9 **Sec. 13.** RCW 18.27.200 and 1993 c 454 s 7 are each amended to read
10 as follows:

11 (1) It is a violation of this chapter and an infraction for any
12 contractor to:

13 (a) Advertise, offer to do work, submit a bid, or perform any work
14 as a contractor without being registered as required by this chapter;

15 (b) Advertise, offer to do work, submit a bid, or perform any work
16 as a contractor when the contractor's registration is suspended or
17 revoked; (~~or~~)

18 (c) Transfer a valid registration to an unregistered contractor or
19 allow an unregistered contractor to work under a registration issued to
20 another contractor; or

21 (d) Knowingly subcontract work to a person not registered as
22 required under this chapter. However, a contractor does not commit an
23 infraction if the subcontractor becomes unregistered during the course
24 of its work without the knowledge of the contractor.

25 (2) Each day that a contractor works without being registered as
26 required by this chapter, works while the contractor's registration is
27 suspended, or works under a registration issued to another contractor
28 is a separate infraction. Each worksite at which a contractor works
29 without being registered as required by this chapter, works while the
30 contractor's registration is suspended, or works under a registration
31 issued to another contractor is a separate infraction.

32 **Sec. 14.** RCW 18.27.230 and 1993 c 454 s 9 are each amended to read
33 as follows:

34 The department may issue a notice of infraction if the department
35 reasonably believes that the contractor (~~required to be registered by~~
36 ~~this chapter has failed to do so or~~) has (~~otherwise~~) committed ((a

1 ~~violation under RCW 18.27.200~~) an infraction under this chapter. A
2 notice of infraction issued under this section shall be personally
3 served on the contractor named in the notice by the department's
4 compliance inspectors or service can be made by certified mail directed
5 to the contractor named in the notice of infraction. If the contractor
6 named in the notice of infraction is a firm or corporation, the notice
7 may be personally served on any employee of the firm or corporation.
8 If a notice of infraction is personally served upon an employee of a
9 firm or corporation, the department shall within four days of service
10 send a copy of the notice by certified mail to the contractor if the
11 department is able to obtain the contractor's address.

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

14 (1) Except as otherwise provided in subsections (4) and (5) of this
15 section, a contractor found to have committed an infraction under RCW
16 18.27.200 shall be assessed a monetary penalty of not less than two
17 hundred dollars and not more than three thousand dollars.

18 (2) Except as otherwise provided in subsections (4) and (5) of this
19 section, the administrative law judge may waive, reduce, or suspend the
20 monetary penalty imposed for the infraction only upon a showing of good
21 cause that the penalty would be unduly burdensome ((to)) for the
22 contractor.

23 (3) The director may waive collection in favor of payment of
24 restitution to a consumer complainant.

25 (4) A contractor found to have committed an infraction under RCW
26 18.27.200 for failure to register shall be assessed a fine of not less
27 than one thousand dollars, nor more than five thousand dollars. The
28 penalty for failure to register may be reduced, but in no case below
29 five hundred dollars, if the person becomes registered within ten days
30 of receiving a citation and the citation is for a first offense.

31 (5) If a contractor who is issued a notice of infraction is an
32 unregistered contractor under this chapter, then the contractor is
33 subject to a penalty in the amount of one thousand dollars per
34 violation. The penalty may be reduced, but in no case below five
35 hundred dollars, if the person registers as a contractor within ten
36 days of the notice of infraction.

37 (6) Monetary penalties collected under this chapter shall be
38 deposited in the general fund.

1 **Sec. 16.** RCW 51.12.020 and 1991 c 324 s 18 and 1991 c 246 s 4 are
2 each reenacted and amended to read as follows:

3 The following are the only employments which shall not be included
4 within the mandatory coverage of this title:

5 (1) Any person employed as a domestic servant in a private home by
6 an employer who has less than two employees regularly employed forty or
7 more hours a week in such employment.

8 (2) Any person employed to do gardening, maintenance, or repair,
9 (~~remodeling, or similar work~~) in or about the private home of the
10 employer. For the purposes of this subsection, "maintenance" means the
11 work of keeping in proper condition, "repair" means to restore to sound
12 condition after damage, and "private home" means a person's place of
13 residence.

14 (3) A person whose employment is not in the course of the trade,
15 business, or profession of his or her employer and is not in or about
16 the private home of the employer.

17 (4) Any person performing services in return for aid or sustenance
18 only, received from any religious or charitable organization.

19 (5) Sole proprietors or partners.

20 (6) Any child under eighteen years of age employed by his or her
21 parent or parents in agricultural activities on the family farm.

22 (7) Jockeys while participating in or preparing horses for race
23 meets licensed by the Washington horse racing commission pursuant to
24 chapter 67.16 RCW.

25 (8)(a) Except as otherwise provided in (b) of this subsection, any
26 bona fide officer of a corporation voluntarily elected or voluntarily
27 appointed in accordance with the articles of incorporation or bylaws of
28 the corporation, who at all times during the period involved is also a
29 bona fide director, and who is also a shareholder of the corporation.
30 Only such officers who exercise substantial control in the daily
31 management of the corporation and whose primary responsibilities do not
32 include the performance of manual labor are included within this
33 subsection.

34 (b) Alternatively, a corporation that is not a "public company" as
35 defined in RCW 23B.01.400(~~(+19)~~) (20) may exempt eight or fewer bona
36 fide officers, who are voluntarily elected or voluntarily appointed in
37 accordance with the articles of incorporation or bylaws of the
38 corporation and who exercise substantial control in the daily
39 management of the corporation, from coverage under this title without

1 regard to the officers' performance of manual labor if the exempted
2 officer is a shareholder of the corporation, or may exempt any number
3 of officers if all the exempted officers are related by blood within
4 the third degree or marriage. If a corporation that is not a "public
5 company" elects to be covered under subsection (8)(a) of this section,
6 the corporation's election must be made on a form prescribed by the
7 department and under such reasonable rules as the department may adopt.

8 (c) Determinations respecting the status of persons performing
9 services for a corporation shall be made, in part, by reference to
10 Title 23B RCW and to compliance by the corporation with its own
11 articles of incorporation and bylaws. For the purpose of determining
12 coverage under this title, substance shall control over form, and
13 mandatory coverage under this title shall extend to all workers of this
14 state, regardless of honorary titles conferred upon those actually
15 serving as workers.

16 (d) A corporation may elect to cover officers who are exempted by
17 this subsection in the manner provided by RCW 51.12.110.

18 (9) Services rendered by a musician or entertainer under a contract
19 with a purchaser of the services, for a specific engagement or
20 engagements when such musician or entertainer performs no other duties
21 for the purchaser and is not regularly and continuously employed by the
22 purchaser. A purchaser does not include the leader of a group or
23 recognized entity who employs other than on a casual basis musicians or
24 entertainers.

25 (10) Services performed by a newspaper carrier selling or
26 distributing newspapers on the street or from house to house.

27 (11) Services performed by an insurance agent, insurance broker, or
28 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and
29 48.17.030, respectively.

30 (12) Services performed by a booth renter as defined in RCW
31 18.16.020. However, a person exempted under this subsection may elect
32 coverage under RCW 51.32.030.

33 NEW SECTION. **Sec. 17.** RCW 18.27.140 and 1983 1st ex.s. c 2 s 21
34 & 1973 1st ex.s. c 161 s 2 are each repealed."

35 **1630-S** - S COMM AMD
36 By Committee on Labor, Commerce & Trade

37 ADOPTED 4/12/95

1 On page 1, line 1 of the title, after "contractors;" strike the
2 remainder of the title and insert "amending RCW 18.27.010, 18.27.020,
3 18.27.030, 18.27.040, 18.27.060, 18.27.090, 18.27.100, 18.27.104,
4 18.27.110, 18.27.114, 18.27.117, 18.27.200, 18.27.230, and 18.27.340;
5 reenacting and amending RCW 51.12.020; adding a new section to chapter
6 18.27 RCW; repealing RCW 18.27.140; and prescribing penalties."

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