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**SUBSTITUTE SENATE BILL 5232**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Labor & Workforce Development (originally sponsored by Senators Horn, Heavey, Fairley, Oke, Franklin, Hochstatter, Kohl-Welles and Winsley)

Read first time 03/03/99.

1 AN ACT Relating to consumer protection regarding contractors;  
2 amending RCW 18.27.010, 18.27.030, 18.27.040, 18.27.050, 18.27.100,  
3 18.27.110, 18.27.114, 18.27.340, and 60.04.031; adding a new section to  
4 chapter 18.27 RCW; creating a new section; and prescribing penalties.

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

6 **Sec. 1.** RCW 18.27.010 and 1997 c 314 s 2 are each amended to read  
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10 (1) "Contractor" means any person, firm, or corporation who or  
11 which, in the pursuit of an independent business undertakes to, or  
12 offers to undertake, or submits a bid to, construct, alter, repair, add  
13 to, subtract from, improve, move, wreck or demolish, for another, any  
14 building, highway, road, railroad, excavation or other structure,  
15 project, development, or improvement attached to real estate or to do  
16 any part thereof including the installation of carpeting or other floor  
17 covering, the erection of scaffolding or other structures or works in  
18 connection therewith or who installs or repairs roofing or siding; or,  
19 who, to do similar work upon his or her own property, employs members

1 of more than one trade upon a single job or project or under a single  
2 building permit except as otherwise provided herein. "Contractor"  
3 includes any person, firm, or corporation covered by this subsection,  
4 whether or not registered as required under this chapter.

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

6 (3) "Director" means the director of the department of labor and  
7 industries.

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

15 ~~((+3))~~ (5) "Partnership" means a business formed under Title 25  
16 RCW.

17 (6) "Residential homeowner" means an individual person or persons  
18 owning real property upon which one single-family residence is to be  
19 built or upon which there is a single-family residence to which  
20 construction improvements are to be made and in which the owner intends  
21 to reside upon completion of any construction.

22 (7) "Specialty contractor" means a contractor whose operations do  
23 not fall within the ((foregoing)) definition of "general  
24 contractor((#))."

25 ~~((+4))~~ (8) "Substantial completion" means the earliest occurrence  
26 of either: (a) The date upon which the work of improvement has been  
27 completed as specified under the contract; (b) the date upon which the  
28 improvement becomes usable or fit for the purposes for which it was  
29 intended; (c) the date of issuance of a certificate of occupancy; or  
30 (d) the date of occupation or use of the improvement by the owner or an  
31 agent of the owner.

32 (9) "Unregistered contractor" means a person, firm, or corporation  
33 doing work as a contractor without being registered in compliance with  
34 this chapter. "Unregistered contractor" includes contractors whose  
35 registration is expired for more than thirty days beyond the renewal  
36 date or has been suspended.

37 ~~((+5) "Department" means the department of labor and industries.~~

38 ~~(6) "Director" means the director of the department of labor and~~  
39 ~~industries.~~

1       ~~(7))~~ (10) "Verification" means the receipt and duplication by the  
2 city, town, or county of a contractor registration card that is current  
3 on its face, checking the department's contractor registration data  
4 base, or calling the department to confirm that the contractor is  
5 registered.

6       (11) "Work of improvement" means work performed or provided,  
7 including labor, materials, equipment, and professional services, that  
8 led to the improvement of real property for a private or public owner.  
9 Work of improvement includes incremental improvements that are in  
10 themselves complete but do not necessarily bring a property improvement  
11 to a state of substantial completion.

12       **Sec. 2.** RCW 18.27.030 and 1998 c 279 s 3 are each amended to read  
13 as follows:

14       (1) An applicant for registration as a contractor shall submit an  
15 application under oath upon a form to be prescribed by the director and  
16 which shall include the following information pertaining to the  
17 applicant:

18       (a) Employer social security number.

19       (b) Evidence of workers' compensation coverage for the applicant's  
20 employees working in Washington, as follows:

21       (i) The applicant's industrial insurance account number issued by  
22 the department;

23       (ii) The applicant's self-insurer number issued by the department;  
24 or

25       (iii) For applicants domiciled in a state or province of Canada  
26 subject to an agreement entered into under RCW 51.12.120(7), as  
27 permitted by the agreement, filing a certificate of coverage issued by  
28 the agency that administers the workers' compensation law in the  
29 applicant's state or province of domicile certifying that the applicant  
30 has secured the payment of compensation under the other state's or  
31 province's workers' compensation law.

32       (c) Employment security department number.

33       (d) State excise tax registration number.

34       (e) Unified business identifier (UBI) account number may be  
35 substituted for the information required by (b) of this subsection if  
36 the applicant will not employ employees in Washington, and by (c) and  
37 (d) of this subsection.

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

3 (g) The name and address of each partner if the applicant is a firm  
4 or partnership, or the name and address of the owner if the applicant  
5 is an individual proprietorship, or the name and address of the  
6 corporate officers and statutory agent, if any, if the applicant is a  
7 corporation. The information contained in such application is a matter  
8 of public record and open to public inspection.

9 (2) The department may verify the workers' compensation coverage  
10 information provided by the applicant under subsection (1)(b) of this  
11 section, including but not limited to information regarding the  
12 coverage of an individual employee of the applicant. If coverage is  
13 provided under the laws of another state, the department may notify the  
14 other state that the applicant is employing employees in Washington.

15 (3)(a) The department shall deny an application for registration  
16 if: (i) The applicant has been previously registered as a sole  
17 proprietor, partnership, or corporation and the department has notice  
18 that the applicant has an unsatisfied final judgment against him or her  
19 in an action based on this chapter that was incurred during a previous  
20 registration under this chapter; or (ii) the applicant was a principal  
21 or officer named on a previous application of a previously registered  
22 partnership or corporation that has an unsatisfied final judgment  
23 against it in an action based on this chapter that was incurred during  
24 a previous registration under this chapter.

25 (b) The department shall suspend an active registration if the  
26 department has notice that the registrant is a sole proprietor or a  
27 principal or officer named in the application of another registered  
28 entity that has an unsatisfied final judgment against it.

29 (c) The department shall not deny an application or suspend a  
30 registration because of an unsatisfied final judgment if the  
31 applicant's or registrant's unsatisfied final judgment was the result  
32 of the fraud or negligence of another party.

33 (4) For the purposes of this section, "an unsatisfied final  
34 judgment" includes a judgment assigned under RCW 19.72.070.

35 **Sec. 3.** RCW 18.27.040 and 1997 c 314 s 5 are each amended to read  
36 as follows:

37 (1) Each applicant shall file with the department a surety bond  
38 issued by a surety insurer who meets the requirements of chapter 48.28

1 RCW in the sum of (~~six~~) twelve thousand dollars if the applicant is  
2 a general contractor and (~~four~~) six thousand dollars if the applicant  
3 is a specialty contractor. If no valid bond is already on file with  
4 the department at the time the application is filed, a bond must  
5 accompany the registration application. The bond shall have the state  
6 of Washington named as obligee with good and sufficient surety in a  
7 form to be approved by the department. The bond shall be continuous  
8 and may be canceled by the surety upon the surety giving written notice  
9 to the director of its intent to cancel the bond. A cancellation or  
10 revocation of the bond or withdrawal of the surety from the bond  
11 suspends the registration issued to the registrant until a new bond or  
12 reinstatement notice has been filed and approved as provided in this  
13 section. The bond shall be conditioned that the applicant will pay all  
14 persons performing labor, including employee benefits, for the  
15 contractor, will pay all taxes and contributions due to the state of  
16 Washington, and will pay all persons furnishing labor or material or  
17 renting or supplying equipment to the contractor and will pay all  
18 amounts that may be adjudged against the contractor by reason of breach  
19 of contract including negligent or improper work in the conduct of the  
20 contracting business. A change in the name of a business or a change  
21 in the type of business entity shall not impair a bond for the purposes  
22 of this section so long as one of the original applicants for such bond  
23 maintains partial ownership in the business covered by the bond.

24 (~~(2) (Any contractor registered as of July 1, 1997, who maintains~~  
25 ~~such registration in accordance with this chapter shall be in~~  
26 ~~compliance with this chapter until the next annual renewal of the~~  
27 ~~contractor's certificate of registration. At that time)~~) At the time  
28 of initial registration or renewal, the contractor shall provide a  
29 bond, cash deposit, or other security deposit as required by this  
30 chapter and comply with all of the other provisions of this chapter  
31 before the department shall issue or renew the contractor's certificate  
32 of registration. Any increase in bond or deposit amounts required by  
33 statutory changes to this chapter shall not be required of a currently  
34 registered contractor until the next annual renewal of the contractor's  
35 certificate of registration.

36 (3) The total amount paid from a bond or deposit required by this  
37 section to claimants other than residential homeowners must not exceed  
38 in the aggregate six thousand dollars if provided by a general

1 contractor and four thousand dollars if provided by a specialty  
2 contractor.

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

29 ((+4)) (5) The surety upon the bond shall not be liable in an  
30 aggregate amount in excess of the amount named in the bond nor for any  
31 monetary penalty assessed pursuant to this chapter for an infraction.  
32 The liability of the surety shall not cumulate where the bond has been  
33 renewed, continued, reinstated, reissued or otherwise extended. The  
34 surety upon the bond may, upon notice to the department and the  
35 parties, tender to the clerk of the court having jurisdiction of the  
36 action an amount equal to the claims thereunder or the amount of the  
37 bond less the amount of judgments, if any, previously satisfied  
38 therefrom and to the extent of such tender the surety upon the bond  
39 shall be exonerated but if the actions commenced and pending at any one

1 time exceed the amount of the bond then unimpaired, claims shall be  
2 satisfied from the bond in the following order:

3 (a) Employee labor and claims of laborers, including employee  
4 benefits;

5 (b) Claims for breach of contract by a party to the construction  
6 contract;

7 (c) Registered subcontractors, material, and equipment;

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

9 (e) Any court costs, interest, and attorney's fees plaintiff may be  
10 entitled to recover. The surety is not liable for any amount in excess  
11 of the penal limit of its bond.

12 A payment made by the surety in good faith exonerates the bond to  
13 the extent of any payment made by the surety.

14 (~~(+5)~~) (6) If a final judgment impairs the liability of the surety  
15 upon the bond so furnished that there shall not be in effect a bond  
16 undertaking in the full amount prescribed in this section, the  
17 department shall suspend the registration of the contractor until the  
18 bond liability in the required amount unimpaired by unsatisfied  
19 judgment claims is furnished. If the bond becomes fully impaired, a  
20 new bond must be furnished at the rates prescribed by this section.

21 (~~(+6)~~) (7) In lieu of the surety bond required by this section the  
22 contractor may file with the department a deposit consisting of cash or  
23 other security acceptable to the department.

24 (~~(+7)~~) (8) Any person having filed and served a summons and  
25 complaint as required by this section having an unsatisfied final  
26 judgment against the registrant for any items referred to in this  
27 section may execute upon the security held by the department by serving  
28 a certified copy of the unsatisfied final judgment by registered or  
29 certified mail upon the department within one year of the date of entry  
30 of such judgment. Upon the receipt of service of such certified copy  
31 the department shall pay or order paid from the deposit, through the  
32 registry of the superior court which rendered judgment, towards the  
33 amount of the unsatisfied judgment. The priority of payment by the  
34 department shall be the order of receipt by the department, but the  
35 department shall have no liability for payment in excess of the amount  
36 of the deposit.

37 (~~(+8)~~) (9) The director may adopt rules necessary for the proper  
38 administration of the security.

1       **Sec. 4.** RCW 18.27.050 and 1987 c 303 s 1 are each amended to read  
2 as follows:

3       (1) At the time of registration and subsequent reregistration, the  
4 applicant shall furnish insurance or financial responsibility in the  
5 form of an assigned account in the amount of (~~twenty~~) fifty thousand  
6 dollars for injury or damages to property, and (~~fifty~~) one hundred  
7 thousand dollars for injury or damage including death to any one  
8 person, and (~~one~~) two hundred thousand dollars for injury or damage  
9 including death to more than one person (~~or financial responsibility~~  
10 ~~to satisfy these amounts~~)).

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

14       (3)(a) Proof of financial responsibility authorized in this section  
15 may be given by providing, in the amount required by subsection (1) of  
16 this section, an assigned account acceptable to the department. The  
17 assigned account shall be held by the department to satisfy any  
18 execution on a judgment issued against the contractor for damage to  
19 property or injury or death to any person occurring in the contractor's  
20 contracting operations, according to the provisions of the assigned  
21 account agreement. The department shall have no liability for payment  
22 in excess of the amount of the assigned account.

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

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

27       (ii) The contractor has furnished proof of insurance as required by  
28 subsection (1) of this section;

29 if, in either case, no legal action has been instituted against the  
30 contractor or on the account at the expiration of the three-year  
31 period.

32       (c) If a contractor chooses to file an assigned account as  
33 authorized in this section, the contractor shall, on any contracting  
34 project, notify each person with whom the contractor enters into a  
35 contract or to whom the contractor submits a bid that the contractor  
36 has filed an assigned account in lieu of insurance and that recovery  
37 from the account for any claim against the contractor for property  
38 damage or personal injury or death occurring in the project requires  
39 the claimant to obtain a court judgment.



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

3        (1) If a contractor, whether registered or not, defaults in a  
4 payment, penalty, or fine due to the department, the director or the  
5 director's designee may issue a notice of assessment certifying the  
6 amount due. The notice must be served upon the contractor by mailing  
7 the notice to the contractor by certified mail to the contractor's last  
8 known address or served in the manner prescribed for the service of a  
9 summons in a civil action.

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

23        (3) The director or the director's designee may file with the clerk  
24 of any county within the state a warrant in the amount of the notice of  
25 assessment. The clerk of the county in which the warrant is filed  
26 shall immediately designate a superior court cause number for the  
27 warrant, and the clerk shall cause to be entered in the judgment docket  
28 under the superior court cause number assigned to the warrant, the name  
29 of the contractor mentioned in the warrant, the amount of payment,  
30 penalty, or fine due on it, and the date when the warrant was filed.  
31 The aggregate amount of the warrant as docketed is a lien upon the  
32 title to, and interest in, all real and personal property of the  
33 contractor against whom the warrant is issued, the same as a judgment  
34 in a civil case docketed in the office of the clerk. The sheriff shall  
35 proceed upon the warrant in all respects and with like effect as  
36 prescribed by law with respect to execution or other process issued  
37 against rights or property upon judgment in the superior court. The  
38 warrant so docketed is sufficient to support the issuance of writs of  
39 garnishment in favor of the state in a manner provided by law in case

1 of judgment, wholly or partially unsatisfied. The clerk of the court  
2 is entitled to a filing fee of five dollars, which will be added to the  
3 amount of the warrant. A copy of the warrant must be mailed to the  
4 contractor within three days of filing with the clerk.

5 (4) The director or the director's designee may issue to any  
6 person, firm, corporation, municipal corporation, political subdivision  
7 of the state, a public corporation, or any agency of the state, a  
8 notice and order to withhold and deliver property of any kind  
9 whatsoever when he or she has reason to believe that there is in the  
10 possession of the person, firm, corporation, municipal corporation,  
11 political subdivision of the state, public corporation, or agency of  
12 the state, property that is or will become due, owing, or belonging to  
13 a contractor upon whom a notice of assessment has been served by the  
14 department for payments, penalties, or fines due to the department.  
15 The effect of a notice and order is continuous from the date the notice  
16 and order is first made until the liability out of which the notice and  
17 order arose is satisfied or becomes unenforceable because of lapse of  
18 time. The department shall release the notice and order when the  
19 liability out of which the notice and order arose is satisfied or  
20 becomes unenforceable by reason of lapse of time and shall notify the  
21 person against whom the notice and order was made that the notice and  
22 order has been released.

23 The notice and order to withhold and deliver must be served by the  
24 sheriff of the county or by the sheriff's deputy, by certified mail,  
25 return receipt requested, or by an authorized representative of the  
26 director. A person, firm, corporation, municipal corporation,  
27 political subdivision of the state, public corporation, or agency of  
28 the state upon whom service has been made shall answer the notice  
29 within twenty days exclusive of the day of service, under oath and in  
30 writing, and shall make true answers to the matters inquired of in the  
31 notice and order. Upon service of the notice and order, if the party  
32 served possesses any property that may be subject to the claim of the  
33 department, the party shall promptly deliver the property to the  
34 director or the director's authorized representative. The director  
35 shall hold the property in trust for application on the contractor's  
36 indebtedness to the department, or for return without interest, in  
37 accordance with a final determination of a petition for review. In the  
38 alternative, the party shall furnish a good and sufficient surety bond  
39 satisfactory to the director conditioned upon final determination of

1 liability. If a party served and named in the notice fails to answer  
2 the notice within the time prescribed in this section, the court may  
3 render judgment by default against the party for the full amount  
4 claimed by the director in the notice, together with costs. If a  
5 notice is served upon a contractor and the property subject to it is  
6 wages, the contractor may assert in the answer all exemptions provided  
7 for by chapter 6.27 RCW to which the wage earner is entitled.

8 (5) In addition to the procedure for collection of a payment,  
9 penalty, or fine due to the department as set forth in this section,  
10 the department may recover civil penalties imposed under this chapter  
11 in a civil action in the name of the department brought in the superior  
12 court of the county where the violation is alleged to have occurred.

13 **Sec. 6.** RCW 18.27.100 and 1997 c 314 s 9 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) All advertising that shows the contractor's name or address  
25 shall show the contractor's current registration number. The  
26 registration number may be omitted in an alphabetized listing of  
27 registered contractors stating only the name, address, and telephone  
28 number: PROVIDED, That signs on motor vehicles subject to RCW  
29 46.16.010 and on-premise signs shall not constitute advertising as  
30 provided in this section. All materials used to directly solicit  
31 business from retail customers who are not businesses shall show the  
32 contractor's current registration number. A contractor shall not use  
33 a false or expired registration number in purchasing or offering to  
34 purchase an advertisement for which a contractor registration number is  
35 required. Advertising by airwave transmission shall not be subject to  
36 this subsection (3)(a).

37 (b) The director may issue a subpoena to any person or entity  
38 selling any advertising subject to this section for the name, address,

1 and telephone number provided to the seller of the advertising by the  
2 purchaser of the advertising. The subpoena must have enclosed a  
3 stamped, self-addressed envelope and blank form to be filled out by the  
4 seller of the advertising. If the seller of the advertising has the  
5 information on file, the seller shall, within a reasonable time, return  
6 the completed form to the department. The subpoena must be issued  
7 before forty-eight hours after the expiration of the issue or  
8 publication containing the advertising or after the broadcast of the  
9 advertising. The good-faith compliance by a seller of advertising with  
10 a written request of the department for information concerning the  
11 purchaser of advertising shall constitute a complete defense to any  
12 civil or criminal action brought against the seller of advertising  
13 arising from such compliance. Advertising by airwave or electronic  
14 transmission is subject to this subsection (3)(b).

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

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

25 ~~((+6))~~ (5) Any advertising by a person, firm, or corporation  
26 soliciting work as a contractor when that person, firm, or corporation  
27 is not registered pursuant to this chapter is a violation of this  
28 chapter.

29 ~~((+7))~~ (6)(a) The finding of a violation of this section by the  
30 director at a hearing held in accordance with the Administrative  
31 Procedure Act, chapter 34.05 RCW, shall subject the person committing  
32 the violation to a penalty of not more than ~~((five))~~ ten thousand  
33 dollars as determined by the director.

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

36 **Sec. 7.** RCW 18.27.110 and 1997 c 314 s 11 are each amended to read  
37 as follows:

1 (1) No city, town or county shall issue a construction building  
2 permit for work which is to be done by any contractor required to be  
3 registered under this chapter without verification that such contractor  
4 is currently registered as required by law. When such verification is  
5 made, nothing contained in this section is intended to be, nor shall be  
6 construed to create, or form the basis for any liability under this  
7 chapter on the part of any city, town or county, or its officers,  
8 employees or agents. However, failure to verify the contractor  
9 registration number results in liability to the city, town, or county  
10 to a penalty to be imposed according to RCW 18.27.100(~~(+7)~~) (6)(a).

11 (2) At the time of issuing the building permit, all cities, towns,  
12 or counties are responsible for:

13 (a) Printing the contractor registration number on the building  
14 permit; and

15 (b) Providing a written notice to the building permit applicant  
16 informing them of contractor registration laws and the potential risk  
17 and monetary liability to the homeowner for using an unregistered  
18 contractor.

19 (3) If a building permit is obtained by an applicant or contractor  
20 who falsifies information to obtain an exemption provided under RCW  
21 18.27.090, the building permit shall be forfeited.

22 **Sec. 8.** RCW 18.27.114 and 1997 c 314 s 12 are each amended to read  
23 as follows:

24 (1) Any contractor agreeing to perform any contracting project:

25 (a) For the repair, alteration, or construction of four or fewer  
26 residential units or accessory structures on such residential property  
27 when the bid or contract price totals one thousand dollars or more; or

28 (b) for the repair, alteration, or construction of a commercial  
29 building when the bid or contract price totals one thousand dollars or  
30 more but less than sixty thousand dollars, must provide the customer  
31 with the following disclosure statement in substantially the following  
32 form using lower case and upper case twelve-point and bold type where  
33 appropriate, prior to starting work on the project:

34 "NOTICE TO CUSTOMER

35 (~~This contractor is registered with the state of Washington,~~  
36 ~~registration no. . . . ., as a general/specialty contractor and~~  
37 ~~has posted with the state a bond or cash deposit of~~

1       ~~\$6,000/\$4,000 for the purpose of satisfying claims against the~~  
2       ~~contractor for negligent or improper work or breach of contract~~  
3       ~~in the conduct of the contractor's business. The expiration~~  
4       ~~date of this contractor's registration is . . . . . This~~  
5       ~~bond or cash deposit may not be sufficient to cover a claim~~  
6       ~~which might arise from the work done under your contract. If~~  
7       ~~any supplier of materials used in your construction project or~~  
8       ~~any employee of the contractor or subcontractor is not paid by~~  
9       ~~the contractor or subcontractor on your job, your property may~~  
10       ~~be liened to force payment. If you wish additional protection,~~  
11       ~~you may request the contractor to provide you with original~~  
12       ~~"lien release" documents from each supplier or subcontractor on~~  
13       ~~your 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       This contractor is registered with the state of Washington,  
18       registration no. . . . , and has posted with the state a bond or  
19       cash deposit of . . . . . for the purpose of satisfying claims  
20       against the contractor for breach of contract including  
21       negligent or improper work in the conduct of the contractor's  
22       business. The expiration date of this contractor's  
23       registration is . . . . .

24       **THIS BOND OR CASH DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A**  
25       **CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.**

26       This bond or deposit is not for your exclusive use because it  
27       covers all work performed by this contractor. The bond or  
28       deposit is intended to pay valid claims up to . . . . . that  
29       you and other customers, suppliers, subcontractors, or taxing  
30       authorities may have.

31       **FOR GREATER PROTECTION YOU MAY REQUEST YOUR CONTRACTOR TO**  
32       **PROVIDE YOU WITH A PAYMENT AND PERFORMANCE BOND FOR YOUR JOB.**

33       Your contractor may obtain a payment and performance bond for  
34       an additional fee to guarantee payment of suppliers and  
35       subcontractors and performance of your construction project.

36       Other methods of protecting yourself include: Employing the  
37       services of an attorney, a construction contract control

1 professional, or other construction professional; entering into  
2 a joint check arrangement with your contractor and his or her  
3 subcontractors and suppliers to insure that payment is made to  
4 those parties; and withholding a contractually defined  
5 percentage of your construction contract as retainage for a  
6 stated period of time to provide protection to you and help  
7 insure that your project will be completed as required by your  
8 contract.

9 **YOUR PROPERTY MAY BE LIENED.**

10 If a supplier of materials used in your construction project or  
11 an employee or subcontractor of your contractor or  
12 subcontractors is not paid, your property may be liened to  
13 force payment and you could pay twice for the same work.

14 **FOR ADDITIONAL PROTECTION, YOU SHOULD MAKE CHECKS PAYABLE**  
15 **JOINTLY TO THE CONTRACTOR AND SUPPLIERS OR SUBCONTRACTORS AND**  
16 **REQUIRE THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN**  
17 **RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR ON YOUR**  
18 **PROJECT.**

19 The contractor is required to provide you with further  
20 information about lien release documents if you request it.  
21 General information is also available from the state Department  
22 of Labor and Industries."

23 (2) A contractor subject to this section shall notify any consumer  
24 to whom notice is required under subsection (1) of this section if the  
25 contractor's registration has expired or is revoked or suspended by the  
26 department prior to completion or other termination of the contract  
27 with the consumer.

28 (3) No contractor subject to this section may bring or maintain any  
29 lien claim under chapter 60.04 RCW based on any contract to which this  
30 section applies without alleging and proving that the contractor has  
31 provided the customer with a copy of the disclosure statement as  
32 required in subsection (1) of this section.

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

35 (5) Failure to comply with this section shall constitute an  
36 infraction under the provisions of this chapter.

1 (6) The department shall produce model disclosure statements, and  
2 public service announcements detailing the information needed to assist  
3 contractors and contractors' customers to comply under this section.  
4 As necessary, the department shall periodically update these education  
5 materials.

6 **Sec. 9.** RCW 18.27.340 and 1997 c 314 s 17 are each amended to read  
7 as follows:

8 (1) Except as otherwise provided in subsection (3) of this section,  
9 a contractor found to have committed an infraction under RCW 18.27.200  
10 shall be assessed a monetary penalty of not less than two hundred  
11 dollars and not more than five thousand dollars.

12 (2) The director may waive collection in favor of payment of  
13 restitution to a consumer complainant.

14 (3) A contractor found to have committed an infraction under RCW  
15 18.27.200 for failure to register shall be assessed a fine of not less  
16 than one thousand dollars, nor more than five thousand dollars. The  
17 director may reduce the penalty for failure to register, but in no case  
18 below five hundred dollars, if the person becomes registered within ten  
19 days of receiving a notice of infraction and the notice of infraction  
20 is for a first offense.

21 (4) ~~((Monetary penalties collected under this chapter shall be  
22 deposited in the general fund.))~~ The department shall retain revenue  
23 generated through fines and penalties for infractions of this chapter  
24 for the purposes of administering and enforcing this chapter.

25 NEW SECTION. **Sec. 10.** (1) The professional contractors' advisory  
26 board is created in the department. The director shall appoint the  
27 board to consist of:

28 (a) Five contractors who have been actively engaged in the  
29 contracting business for a minimum of five years, two of whom are  
30 contractors primarily engaged in commercial construction, two of whom  
31 are contractors primarily engaged in residential construction, and one  
32 of whom is a specialty contractor. At least three of the contractor  
33 members must be general contractors, and at least one of the contractor  
34 members must be a specialty contractor;

35 (b) One member of a labor organization representing the building  
36 trades;

37 (c) One local building official; and



1 (d) Four public members who are knowledgeable of and represent  
2 consumer's interests in construction issues but do not meet any of the  
3 qualifications of (a) through (c) of this subsection (1).

4 (2) The board shall develop a dispute resolution process for  
5 construction disputes that are currently experienced in the residential  
6 remodeling and construction market and recommend it to the legislature  
7 and the director along with such implementation steps as the board  
8 feels are warranted.

9 (3) Each member of the board will receive compensation in  
10 accordance with RCW 43.03.240 and reimbursement for travel expenses in  
11 accordance with RCW 43.03.050 and 43.03.060.

12 (4) The professional contractors' advisory board is terminated on  
13 February 1, 2000.

14 **Sec. 11.** RCW 60.04.031 and 1992 c 126 s 2 are each amended to read  
15 as follows:

16 (1) Except as otherwise provided in this section, every person  
17 furnishing professional services, materials, or equipment for the  
18 improvement of real property shall give the owner or reputed owner  
19 notice in writing of the right to claim a lien. If the prime  
20 contractor is in compliance with the requirements of RCW 19.27.095,  
21 60.04.230, and 60.04.261, this notice shall also be given to the prime  
22 contractor as described in this subsection unless the potential lien  
23 claimant has contracted directly with the prime contractor. The notice  
24 may be given at any time but only protects the right to claim a lien  
25 for professional services, materials, or equipment supplied after the  
26 date which is sixty days before:

27 (a) Mailing the notice by certified or registered mail to the owner  
28 or reputed owner; or

29 (b) Delivering or serving the notice personally upon the owner or  
30 reputed owner and obtaining evidence of delivery in the form of a  
31 receipt or other acknowledgement signed by the owner or reputed owner  
32 or an affidavit of service.

33 In the case of new construction of a single-family residence, the  
34 notice of a right to claim a lien may be given at any time but only  
35 protects the right to claim a lien for professional services,  
36 materials, or equipment supplied after a date which is ten days before  
37 the notice is given as described in this subsection.

38 (2) Notices of a right to claim a lien shall not be required of:

1 (a) Persons who contract directly with the owner or the owner's  
2 common law agent;

3 (b) Laborers whose claim of lien is based solely on performing  
4 labor; or

5 (c) Subcontractors who contract for the improvement of real  
6 property directly with the prime contractor, except as provided in  
7 subsection (3)(b) of this section.

8 (3) Persons who furnish professional services, materials, or  
9 equipment in connection with the repair, alteration, or remodel of an  
10 existing owner-occupied single-family residence or appurtenant garage  
11 or in connection with the new construction of a single-family residence  
12 for a residential homeowner:

13 (a) Who contract directly with the (~~owner-occupier~~) owner or  
14 (~~their~~) the owner's common law agent shall not be required to send a  
15 written notice of the right to claim a lien and shall have a lien for  
16 the full amount due under their contract, as provided in RCW 60.04.021;  
17 or

18 (b) Who do not contract directly with the (~~owner-occupier~~) owner  
19 or (~~their~~) the owner's common law agent shall give notice of the  
20 right to claim a lien to the (~~owner-occupier~~) owner. Liens of  
21 persons furnishing professional services, materials, or equipment who  
22 do not contract directly with the (~~owner-occupier~~) owner or (~~their~~)  
23 the owner's common law agent may only be satisfied from amounts not yet  
24 paid to the prime contractor by the owner at the time the notice  
25 described in this section is received, regardless of whether amounts  
26 not yet paid to the prime contractor are due. For the purposes of this  
27 subsection "received" means actual receipt of notice by personal  
28 service, or registered or certified mail, or three days after mailing  
29 by registered or certified mail, excluding Saturdays, Sundays, or legal  
30 holidays.

31 (4) The notice of right to claim a lien described in subsection (1)  
32 of this section, shall include but not be limited to the following  
33 information and shall substantially be in the following form, using  
34 lower-case and upper-case ten-point type where appropriate.

35 NOTICE TO OWNER

36 IMPORTANT: READ BOTH SIDES OF THIS NOTICE  
37 CAREFULLY.

38 PROTECT YOURSELF FROM PAYING TWICE

1 To: . . . . . Date: . . . . .

2 Re: (description of property: Street address or general  
3 location.)

4 From: . . . . .

5 AT THE REQUEST OF: (Name of person ordering the professional  
6 services, materials, or equipment)

7 THIS IS NOT A LIEN--THIS NOTICE IS MEANT TO PROVIDE YOU WITH  
8 INFORMATION NECESSARY TO PROPERLY MANAGE YOUR CONSTRUCTION PROJECT:

9 This notice is sent to you to tell you who is providing professional  
10 services, materials, or equipment for the improvement of your property  
11 and to advise you of the rights of these persons and your  
12 responsibilities. Also take note that laborers on your project may  
13 claim a lien without sending you a notice.

14 OWNER/OCCUPIER OF EXISTING  
15 RESIDENTIAL PROPERTY AND/OR  
16 NEW RESIDENTIAL PROPERTY

17 Under Washington law, those who furnish labor, professional services,  
18 materials, or equipment for the repair, remodel, or alteration of your  
19 owner-occupied principal residence and who are not paid, have a right  
20 to enforce their claim for payment against your property. This claim  
21 is known as a construction lien.

22 The law limits the amount that a lien claimant can claim against your  
23 property. If the improvement to your property is the construction of  
24 a new single-family residence, a lien may be claimed for all  
25 professional services, materials, or equipment furnished during the ten  
26 days preceding the date this notice was given to you or mailed to you  
27 and thereafter. Claims may only be made against that portion of the  
28 contract price you have not yet paid to your prime contractor as of the  
29 time this notice was given to you or three days after this notice was  
30 mailed to you. Review the back of this notice for more information and  
31 ways to avoid lien claims.

32 COMMERCIAL ((~~AND/OR NEW~~  
33 ~~RESIDENTIAL~~)) PROPERTY

34 We have or will be providing professional services, materials, or  
35 equipment for the improvement of your commercial ((~~or new residential~~))

1 project. In the event you or your contractor fail to pay us, we may  
2 file a lien against your property. A lien may be claimed for all  
3 professional services, materials, or equipment furnished after a date  
4 that is sixty days before this notice was given to you or mailed to  
5 you(~~(, unless the improvement to your property is the construction of~~  
6 ~~a new single family residence, then ten days before this notice was~~  
7 ~~given to you or mailed to you))).~~

8 Sender: . . . . .  
9 Address: . . . . .  
10 Telephone: . . . . .

11 Brief description of professional services, materials, or equipment  
12 provided or to be provided: . . . . .

13 IMPORTANT INFORMATION  
14 ON REVERSE SIDE

15 IMPORTANT INFORMATION  
16 FOR YOUR PROTECTION

17 This notice is sent to inform you that we have or will provide  
18 professional services, materials, or equipment for the improvement of  
19 your property. We expect to be paid by the person who ordered our  
20 services, but if we are not paid, we have the right to enforce our  
21 claim by filing a construction lien against your property.

22 LEARN more about the lien laws and the meaning of this notice by  
23 discussing them with your contractor, suppliers, Department of Labor  
24 and Industries, the firm sending you this notice, your lender, or your  
25 attorney.

26 COMMON METHODS TO AVOID CONSTRUCTION LIENS: There are several methods  
27 available to protect your property from construction liens. The  
28 following are two of the more commonly used methods.

29 DUAL PAYCHECKS (Joint Checks): When paying your contractor for  
30 services or materials, you may make checks payable jointly to  
31 the contractor and the firms furnishing you this notice.

32 LIEN RELEASES: You may require your contractor to provide lien  
33 releases signed by all the suppliers and subcontractors from  
34 whom you have received this notice. If they cannot obtain lien

1 releases because you have not paid them, you may use the dual  
2 payee check method to protect yourself.

3 YOU SHOULD TAKE APPROPRIATE STEPS TO PROTECT YOUR PROPERTY FROM LIENS.

4 YOUR PRIME CONTRACTOR AND YOUR CONSTRUCTION LENDER ARE REQUIRED BY LAW  
5 TO GIVE YOU WRITTEN INFORMATION ABOUT LIEN CLAIMS. IF YOU HAVE NOT  
6 RECEIVED IT, ASK THEM FOR IT.

7 \* \* \* \* \*

8 (5) Every potential lien claimant providing professional services  
9 where no improvement as defined in RCW 60.04.011(5) (a) or (b) has been  
10 commenced, and the professional services provided are not visible from  
11 an inspection of the real property may record in the real property  
12 records of the county where the property is located a notice which  
13 shall contain the professional service provider's name, address,  
14 telephone number, legal description of the property, the owner or  
15 reputed owner's name, and the general nature of the professional  
16 services provided. If such notice is not recorded, the lien claimed  
17 shall be subordinate to the interest of any subsequent mortgagee and  
18 invalid as to the interest of any subsequent purchaser if the mortgagee  
19 or purchaser acts in good faith and for a valuable consideration  
20 acquires an interest in the property prior to the commencement of an  
21 improvement as defined in RCW 60.04.011(5) (a) or (b) without notice of  
22 the professional services being provided. The notice described in this  
23 subsection shall be substantially in the following form:

24 NOTICE OF FURNISHING  
25 PROFESSIONAL SERVICES

26 That on the \_\_\_(day)\_\_\_ day of \_\_\_(month and year)\_\_\_, \_\_\_(name of  
27 provider)\_\_\_ began providing professional services upon or for the  
28 improvement of real property legally described as follows:

29 [Legal Description  
30 is mandatory]

31 The general nature of the professional services provided is . . .  
32 . . . . .  
33 The owner or reputed owner of the real property is . . . . .  
34 . . . . .

1 . . . . .  
2 (Signature)  
3 . . . . .  
4 (Name of Claimant)  
5 . . . . .  
6 (Street Address)  
7 . . . . .  
8 (City, State, Zip Code)  
9 . . . . .  
10 (Phone Number)

11 (6) A lien authorized by this chapter shall not be enforced unless  
12 the lien claimant has complied with the applicable provisions of this  
13 section.

14 (7) For the purposes of this section "commercial property" includes  
15 residential property that is not owned by a residential homeowner.

--- END ---