

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5101

Chapter 159, Laws of 2001

57th Legislature
2001 Regular Session

CONTRACTORS

EFFECTIVE DATE: 7/22/01

Passed by the Senate April 16, 2001
YEAS 47 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 10, 2001
YEAS 95 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved May 7, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5101** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 7, 2001 - 12:41 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5101

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senators Prentice, Winsley, Kohl-Welles,
Fairley and Fraser; by request of Department of Labor & Industries)

READ FIRST TIME 02/26/01.

1 AN ACT Relating to consumer protection regarding contractors;
2 amending RCW 18.27.010, 18.27.030, 18.27.040, 18.27.050, 18.27.090,
3 18.27.100, 18.27.114, 18.27.310, 18.27.320, and 18.27.075; reenacting
4 and amending RCW 18.27.060; adding new sections to chapter 18.27 RCW;
5 and prescribing penalties.

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

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

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

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

1 who, to do similar work upon his or her own property, employs members
2 of more than one trade upon a single job or project or under a single
3 building permit except as otherwise provided herein. "Contractor"
4 includes any person, firm, ~~((or))~~ corporation, or other entity covered
5 by this subsection, whether or not registered as required under this
6 chapter.

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

8 (3) "Director" means the director of the department of labor and
9 industries or designated representative employed by the department.

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

17 ~~((+3))~~ (5) "Partnership" means a business formed under Title 25
18 RCW.

19 (6) "Registration cancellation" means a written notice from the
20 department that a contractor's action is in violation of this chapter
21 and that the contractor's registration has been revoked.

22 (7) "Registration suspension" means a written notice from the
23 department that a contractor's action is a violation of this chapter
24 and that the contractor's registration has been suspended for a
25 specified time, or until the contractor shows evidence of compliance
26 with this chapter.

27 (8) "Residential homeowner" means an individual person or persons
28 owning or leasing real property:

29 (a) Upon which one single-family residence is to be built and in
30 which the owner or lessee intends to reside upon completion of any
31 construction; or

32 (b) Upon which there is a single-family residence to which
33 improvements are to be made and in which the owner or lessee intends to
34 reside upon completion of any construction.

35 (9) "Specialty contractor" means a contractor whose operations do
36 not fall within the ~~((foregoing))~~ definition of "general contractor".

37 ~~((+4))~~ (10) "Unregistered contractor" means a person, firm, ~~((or))~~
38 corporation, or other entity doing work as a contractor without being
39 registered in compliance with this chapter. "Unregistered contractor"

1 includes contractors whose registration is expired (~~for more than~~
2 ~~thirty days beyond the renewal date or has been~~), revoked, or
3 suspended. "Unregistered contractor" does not include a contractor who
4 has maintained a valid bond and the insurance or assigned account
5 required by RCW 18.27.050, and whose registration has lapsed for thirty
6 or fewer days.

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

8 ~~(6) "Director" means the director of the department of labor and~~
9 ~~industries.~~

10 ~~(7))~~ (11) "Unsatisfied final judgment" means a judgment that has
11 not been satisfied either through payment, court approved settlement,
12 discharge in bankruptcy, or assignment under RCW 19.72.070.

13 (12) "Verification" means the receipt and duplication by the city,
14 town, or county of a contractor registration card that is current on
15 its face, checking the department's contractor registration data base,
16 or calling the department to confirm that the contractor is registered.

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

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

23 (a) Employer social security number.

24 (b) Unified business identifier number, if required by the
25 department of revenue.

26 (c) Evidence of workers' compensation coverage for the applicant's
27 employees working in Washington, as follows:

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

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

32 (iii) For applicants domiciled in a state or province of Canada
33 subject to an agreement entered into under RCW 51.12.120(7), as
34 permitted by the agreement, filing a certificate of coverage issued by
35 the agency that administers the workers' compensation law in the
36 applicant's state or province of domicile certifying that the applicant
37 has secured the payment of compensation under the other state's or
38 province's workers' compensation law.

1 ~~((e))~~ (d) Employment security department number.

2 ~~((d))~~ (e) State excise tax registration number.

3 ~~((e))~~ (f) Unified business identifier (UBI) account number may be
4 substituted for the information required by ~~((b))~~ (c) of this
5 subsection if the applicant will not employ employees in Washington,
6 and by ~~((e))~~ (d) and ~~((d))~~ (e) of this subsection.

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

9 ~~((g))~~ (h) The name and address of each partner if the applicant
10 is a firm or partnership, or the name and address of the owner if the
11 applicant is an individual proprietorship, or the name and address of
12 the corporate officers and statutory agent, if any, if the applicant is
13 a corporation or the name and address of all members of other business
14 entities. The information contained in such application is a matter of
15 public record and open to public inspection.

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

22 (3)(a) The department shall deny an application for registration
23 if: (i) The applicant has been previously ~~((registered))~~ performing
24 work subject to this chapter as a sole proprietor, partnership, ~~((or))~~
25 corporation, or other entity and the department has notice that the
26 applicant has an unsatisfied final judgment against him or her in an
27 action based on this chapter ~~((that was incurred during a previous~~
28 registration under this chapter)) or the applicant owes the department
29 money for penalties assessed or fees due under this chapter as a result
30 of a final judgment; (ii) the applicant was a principal or officer of
31 a partnership, corporation, or other entity that either has an
32 unsatisfied final judgment against it in an action that was incurred
33 for work performed subject to this chapter or owes the department money
34 for penalties assessed or fees due under this chapter as a result of a
35 final judgment; or (iii) the applicant does not have a valid unified
36 business identifier number, if required by the department of revenue.

37 (b) The department shall suspend an active registration if (i) the
38 department has notice that the registrant is a sole proprietor or a
39 principal or officer of a registered contractor that has an unsatisfied

1 final judgment against it for work within the scope of this chapter; or
2 (ii) the applicant does not maintain a valid unified business
3 identifier number, if required by the department of revenue.

4 (4) The department shall not deny an application or suspend a
5 registration because of an unsatisfied final judgment if the
6 applicant's or registrant's unsatisfied final judgment was determined
7 by the director to be the result of the fraud or negligence of another
8 party.

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

11 (1) Each applicant shall file with the department a surety bond
12 issued by a surety insurer who meets the requirements of chapter 48.28
13 RCW in the sum of (~~six~~) twelve thousand dollars if the applicant is
14 a general contractor and (~~four~~) six thousand dollars if the applicant
15 is a specialty contractor. If no valid bond is already on file with
16 the department at the time the application is filed, a bond must
17 accompany the registration application. The bond shall have the state
18 of Washington named as obligee with good and sufficient surety in a
19 form to be approved by the department. The bond shall be continuous
20 and may be canceled by the surety upon the surety giving written notice
21 to the director (~~of its intent to cancel the bond~~). A cancellation
22 or revocation of the bond or withdrawal of the surety from the bond
23 automatically suspends the registration issued to the registrant until
24 a new bond or reinstatement notice has been filed and approved as
25 provided in this section. The bond shall be conditioned that the
26 applicant will pay all persons performing labor, including employee
27 benefits, for the contractor, will pay all taxes and contributions due
28 to the state of Washington, and will pay all persons furnishing labor
29 or material or renting or supplying equipment to the contractor and
30 will pay all amounts that may be adjudged against the contractor by
31 reason of breach of contract including negligent or improper work in
32 the conduct of the contracting business. A change in the name of a
33 business or a change in the type of business entity shall not impair a
34 bond for the purposes of this section so long as one of the original
35 applicants for such bond maintains partial ownership in the business
36 covered by the bond.

37 (2) (~~Any contractor registered as of July 1, 1997, who maintains~~
38 ~~such registration in accordance with this chapter shall be in~~

1 compliance with this chapter until the next annual renewal of the
2 contractor's certificate of registration. ~~At that time~~) At the time
3 of initial registration or renewal, the contractor shall provide a
4 bond(~~(, cash deposit,)~~) or other security deposit as required by this
5 chapter and comply with all of the other provisions of this chapter
6 before the department shall issue or renew the contractor's certificate
7 of registration. Any contractor registered as of July 1, 2001, who
8 maintains that registration in accordance with this chapter is in
9 compliance with this chapter until the next renewal of the contractor's
10 certificate of registration.

11 (3) Any person, firm, or corporation having a claim against the
12 contractor for any of the items referred to in this section may bring
13 suit upon the bond or deposit in the superior court of the county in
14 which the work was done or of any county in which jurisdiction of the
15 contractor may be had. The surety issuing the bond shall be named as
16 a party to any suit upon the bond. Action upon the bond or deposit
17 (~~shall be commenced by filing the summons and complaint with the clerk~~
18 ~~of the appropriate superior court within one year from the date of~~
19 ~~expiration of the certificate of registration in force at the time~~)
20 brought by a residential homeowner for breach of contract by a party to
21 the construction contract shall be commenced by filing the summons and
22 complaint with the clerk of the appropriate superior court within two
23 years from the date the claimed contract work was substantially
24 completed or abandoned. Action upon the bond or deposit brought by any
25 other authorized party shall be commenced by filing the summons and
26 complaint with the clerk of the appropriate superior court within one
27 year from the date the claimed labor was performed and benefits
28 accrued, taxes and contributions owing the state of Washington became
29 due, materials and equipment were furnished, or the claimed contract
30 work was substantially completed or abandoned. Service of process in
31 an action against the contractor, the contractor's bond, or the deposit
32 shall be exclusively by service upon the department. Three copies of
33 the summons and complaint and a fee (~~of ten~~) adopted by rule of not
34 less than twenty dollars to cover the (~~handling~~) costs shall be
35 served by registered or certified mail, or other delivery service
36 requiring notice of receipt, upon the department at the time suit is
37 started and the department shall maintain a record, available for
38 public inspection, of all suits so commenced. Service is not complete
39 until the department receives the (~~ten-dollar~~) fee and three copies

1 of the summons and complaint. The service shall constitute service on
2 the registrant and the surety for suit upon the bond or deposit and the
3 department shall transmit the summons and complaint or a copy thereof
4 to the registrant at the address listed in the registrant's application
5 and to the surety within (~~forty-eight hours~~) two days after it shall
6 have been received.

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

20 (a) Employee labor and claims of laborers, including employee
21 benefits;

22 (b) Claims for breach of contract by a party to the construction
23 contract;

24 (c) Registered or licensed subcontractors, material, and equipment;

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

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

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

31 (5) The total amount paid from a bond or deposit required of a
32 general contractor by this section to claimants other than residential
33 homeowners must not exceed one-half of the bond amount. The total
34 amount paid from a bond or deposit required of a specialty contractor
35 by this section to claimants other than residential homeowners must not
36 exceed one-half of the bond amount or four thousand dollars, whichever
37 is greater.

38 (6) The prevailing party in an action filed under this section
39 against the contractor and contractor's bond or deposit, for breach of

1 contract by a party to a construction contract, is entitled to costs,
2 interest, and reasonable attorneys' fees. The surety upon the bond is
3 not liable in an aggregate amount in excess of the amount named in the
4 bond nor for any monetary penalty assessed pursuant to this chapter for
5 an infraction.

6 (7) If a final judgment impairs the liability of the surety upon
7 the bond so furnished that there ~~((shall not be))~~ is not in effect a
8 bond ~~((undertaking))~~ in the full amount prescribed in this section,
9 ~~((the department shall suspend))~~ the registration of the contractor is
10 automatically suspended until the bond liability in the required amount
11 unimpaired by unsatisfied judgment claims is furnished. ~~((If the bond~~
12 ~~becomes fully impaired, a new bond must be furnished at the rates~~
13 ~~prescribed by this section.~~

14 ~~(6))~~ (8) In lieu of the surety bond required by this section the
15 contractor may file with the department a deposit consisting of cash or
16 other security acceptable to the department.

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

30 ~~((8))~~ (10) The director may require an applicant applying to
31 renew or reinstate a registration or applying for a new registration to
32 file a bond of up to three times the normally required amount, if the
33 director determines that an applicant, or a previous registration of a
34 corporate officer, owner, or partner of a current applicant, has had in
35 the past five years a total of six final judgments in actions under
36 this chapter involving a residential single-family dwelling on two or
37 more different structures.

38 (11) The director may adopt rules necessary for the proper
39 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.)) An expiration,
14 cancellation, or revocation of the insurance policy or withdrawal of
15 the insurer from the insurance policy automatically suspends the
16 registration issued to the registrant until a new insurance policy or
17 reinstatement notice has been filed and approved as provided in this
18 section.~~

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

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

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

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

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

37 (c) If a contractor chooses to file an assigned account as
38 authorized in this section, the contractor shall, on any contracting
39 project, notify each person with whom the contractor enters into a

1 contract or to whom the contractor submits a bid that the contractor
2 has filed an assigned account in lieu of insurance and that recovery
3 from the account for any claim against the contractor for property
4 damage or personal injury or death occurring in the project requires
5 the claimant to obtain a court judgment.

6 **Sec. 5.** RCW 18.27.060 and 1997 c 314 s 6 and 1997 c 58 s 817 are
7 each reenacted and amended to read as follows:

8 (1) A certificate of registration shall be valid for ~~((one))~~ two
9 years and shall be renewed on or before the expiration date. The
10 department shall issue to the applicant a certificate of registration
11 upon compliance with the registration requirements of this chapter.

12 (2) If the department approves an application, it shall issue a
13 certificate of registration to the applicant. ~~((The certificate shall
14 be valid for:~~

15 ~~(a) One year;~~

16 ~~(b) Until the bond expires; or~~

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

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

21 ~~(4))~~ (3) If a contractor's surety bond or other security has an
22 unsatisfied judgment against it or is canceled, or if the contractor's
23 insurance policy is canceled, the contractor's registration shall be
24 automatically suspended on the effective date of the impairment or
25 cancellation. The department shall mail notice of the suspension to
26 the contractor's address on the certificate of registration by
27 certified and by first class mail within ~~((forty-eight hours))~~ two days
28 after suspension.

29 ~~((+5))~~ (4) Renewal of registration is valid on the date the
30 department receives the required fee and proof of bond and liability
31 insurance, if sent by certified mail or other means requiring proof of
32 delivery. The receipt or proof of delivery shall serve as the
33 contractor's proof of renewed registration until he or she receives
34 verification from the department.

35 ~~((+6))~~ (5) The department shall immediately suspend the
36 certificate of registration of a contractor who has been certified by
37 the department of social and health services as a person who is not in
38 compliance with a support order or a residential or visitation order as

1 provided in RCW 74.20A.320. The certificate of registration shall not
2 be reissued or renewed unless the person provides to the department a
3 release from the department of social and health services stating that
4 he or she is in compliance with the order and the person has continued
5 to meet all other requirements for certification during the suspension.

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

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

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

29 (3) The director or the director's designee may file with the clerk
30 of any county within the state, a warrant in the amount of the notice
31 of assessment, plus interest, penalties, and a filing fee of twenty
32 dollars. The clerk of the county in which the warrant is filed shall
33 immediately designate a superior court cause number for the warrant,
34 and the clerk shall cause to be entered in the judgment docket under
35 the superior court cause number assigned to the warrant, the name of
36 the unregistered contractor mentioned in the warrant, the amount of
37 payment, penalty, fine due on it, or filing fee, and the date when the
38 warrant was filed. The aggregate amount of the warrant as docketed

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

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

32 The notice and order to withhold and deliver must be served by the
33 sheriff of the county or by the sheriff's deputy, by certified mail,
34 return receipt requested, or by an authorized representative of the
35 director. A person, firm, corporation, other entity, municipal
36 corporation, political subdivision of the state, public corporation, or
37 agency of the state upon whom service has been made shall answer the
38 notice within twenty days exclusive of the day of service, under oath
39 and in writing, and shall make true answers to the matters inquired of

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

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

24 **Sec. 7.** RCW 18.27.090 and 1997 c 314 s 8 are each amended to read
25 as follows:

26 The registration provisions of this chapter ((does)) do not apply
27 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))~~) that are not actually fabricated
6 into and 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 registered under this chapter)~~) performed by the registered
12 or legal owner, or by a mobile/manufactured home retail dealer or
13 manufacturer licensed under chapter 46.70 RCW who shall warranty
14 service and repairs under chapter 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, except that this exemption shall not deprive the owner of
5 the protections of this chapter against registered and unregistered
6 contractors;

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

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

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

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

28 (16) Contractors on highway projects who have been prequalified as
29 required by RCW 47.28.070, with the department of transportation to
30 perform highway construction, reconstruction, or maintenance work;

31 (17) A mobile/manufactured home dealer or manufacturer who
32 subcontracts the installation, set-up, or repair work to actively
33 registered contractors. This exemption only applies to the
34 installation, set-up, or repair of the mobile/manufactured homes that
35 were manufactured or sold by the mobile/manufactured home dealer or
36 manufacturer.

37 **Sec. 8.** RCW 18.27.100 and 1997 c 314 s 9 are each amended to read
38 as follows:

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

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

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

23 (b) The director may issue a subpoena to any person or entity
24 selling any advertising subject to this section for the name, address,
25 and telephone number provided to the seller of the advertising by the
26 purchaser of the advertising. The subpoena must have enclosed a
27 stamped, self-addressed envelope and blank form to be filled out by the
28 seller of the advertising. If the seller of the advertising has the
29 information on file, the seller shall, within a reasonable time, return
30 the completed form to the department. The subpoena must be issued
31 (~~before forty-eight hours~~) no more than two days after the expiration
32 of the issue or publication containing the advertising or after the
33 broadcast of the advertising. The good-faith compliance by a seller of
34 advertising with a written request of the department for information
35 concerning the purchaser of advertising shall constitute a complete
36 defense to any civil or criminal action brought against the seller of
37 advertising arising from such compliance. Advertising by airwave or
38 electronic 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 Act,
16 chapter 34.05 RCW, shall subject the person committing the violation to
17 a penalty of not more than ((five)) ten thousand dollars as determined
18 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 18.27.114 and 1997 c 314 s 12 are each amended to read
22 as follows:

23 (1) Any contractor agreeing to perform any contracting project:
24 (a) For the repair, alteration, or construction of four or fewer
25 residential units or accessory structures on such residential property
26 when the bid or contract price totals one thousand dollars or more; or
27 (b) for the repair, alteration, or construction of a commercial
28 building when the bid or contract price totals one thousand dollars or
29 more but less than sixty thousand dollars, must provide the customer
30 with the following disclosure statement in substantially the following
31 form using lower case and upper case twelve-point and bold type where
32 appropriate, prior to starting work on the project:

33 "NOTICE TO CUSTOMER

34 (~~This contractor is registered with the state of Washington,~~
35 ~~registration no., as a general/specialty contractor and~~
36 ~~has posted with the state a bond or cash deposit of~~
37 ~~\$6,000/\$4,000 for the purpose of satisfying claims against the~~

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

16 This contractor is registered with the state of Washington,
17 registration no. . . . , and has posted with the state a bond or
18 deposit of for the purpose of satisfying claims
19 against the contractor for breach of contract including
20 negligent or improper work in the conduct of the contractor's
21 business. The expiration date of this contractor's
22 registration is

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

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

30 **FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR**
31 **CONTRACT.**

32 You may withhold a contractually defined percentage of your
33 construction contract as retainage for a stated period of time
34 to provide protection to you and help insure that your project
35 will be completed as required by your contract.

36 **YOUR PROPERTY MAY BE LIENED.**

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

5 **FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO**
6 **PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH**
7 **SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.**

8 The contractor is required to provide you with further
9 information about lien release documents if you request it.
10 General information is also available from the state Department
11 of Labor and Industries."

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

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

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

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

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

31 **Sec. 10.** RCW 18.27.310 and 1993 c 454 s 10 are each amended to
32 read as follows:

33 (1) The administrative law judge shall conduct contractors' notice
34 of infraction cases pursuant to chapter 34.05 RCW.

35 (2) The burden of proof is on the department to establish the
36 commission of the infraction by a preponderance of the evidence. The
37 notice of infraction shall be dismissed if the defendant establishes

1 that, at the time the (~~notice was issued~~) work was performed, the
2 defendant was registered by the department, without suspension, or was
3 exempt from registration.

4 (3) After consideration of the evidence and argument, the
5 administrative law judge shall determine whether the infraction was
6 committed. If it has not been established that the infraction was
7 committed, an order dismissing the notice shall be entered in the
8 record of the proceedings. If it has been established that the
9 infraction was committed, the administrative law judge shall issue
10 findings of fact and conclusions of law in its decision and order
11 determining whether the infraction was committed.

12 (4) An appeal from the administrative law judge's determination or
13 order shall be to the superior court. The decision of the superior
14 court is subject only to discretionary review pursuant to Rule 2.3 of
15 the Rules of Appellate Procedure.

16 **Sec. 11.** RCW 18.27.320 and 1993 c 454 s 11 are each amended to
17 read as follows:

18 The administrative law judge shall dismiss the notice of infraction
19 at any time upon written notification from the department that the
20 contractor named in the notice of infraction was registered, without
21 suspension, at the time the (~~notice of infraction was issued~~) work
22 was performed.

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

25 (1) The department shall use reasonable means, including working
26 cooperatively with construction industry, financial institution, local
27 government, consumer, media, and other interested organizations and
28 individuals, to increase:

29 (a) Consumer awareness of the requirements of this chapter and the
30 methods available to consumers to protect themselves against loss; and

31 (b) Contractor awareness of the obligations imposed on contractors
32 by this chapter.

33 (2) The department shall accomplish the tasks listed in this
34 section within existing resources, including but not limited to fees
35 charged under RCW 18.27.075.

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

3 (1) The legislature finds that it is contrary to public policy to
4 allow unregistered contractors to continue doing business illegally.

5 (2) The department of labor and industries, the employment security
6 department, and the department of revenue shall establish an
7 unregistered contractors enforcement team. The team shall develop a
8 written plan to coordinate the activities of the participating agencies
9 to enforce the state's contractor registration laws and rules and other
10 state laws and rules deemed appropriate by the team. In developing the
11 plan, the team shall seek the input and advice of interested
12 stakeholders who support the work of the team.

13 (3) The director or the director's designee shall call the initial
14 meeting of the unregistered contractors enforcement team by September
15 1, 2001. The team shall complete the plan and forward it to the
16 appropriate standing committees of the legislature and to the
17 departments that contribute members to the team by December 1, 2001.

18 (4) The department of labor and industries, the employment security
19 department, and the department of revenue shall accomplish the tasks
20 listed in this section within existing resources, including but not
21 limited to fees charged under RCW 18.27.075.

22 **Sec. 14.** RCW 18.27.075 and 1983 c 74 s 2 are each amended to read
23 as follows:

24 The department (~~(may not set)~~) shall charge a fee (~~((higher than~~
25 ~~fifty))~~) of one hundred dollars for issuing or renewing a certificate of
26 registration during the 2001-2003 biennium. The department shall
27 revise this amount at least once every two years for the purpose of
28 recognizing economic changes as reflected by the fiscal growth factor
29 under chapter 43.135 RCW.

Passed the Senate April 16, 2001.

Passed the House April 10, 2001.

Approved by the Governor May 7, 2001.

Filed in Office of Secretary of State May 7, 2001.