
SENATE BILL 5453

State of Washington

60th Legislature

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By Senators Morton, Clements and Stevens

Read first time 01/19/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to registration of contractors; amending RCW
2 18.27.020, 18.27.030, 18.27.040, and 18.27.200; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 18.27.020 and 1997 c 314 s 3 are each amended to read
6 as follows:

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

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

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

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

14 (c) Use a false or expired registration number in purchasing or
15 offering to purchase an advertisement for which a contractor
16 registration number is required; ((or))

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

1 (e) Subcontract to or employ an unregistered contractor.

2 (3) It is not unlawful for a general contractor to employ an
3 unregistered contractor who was registered at the time he or she
4 entered into a contract with the general contractor, unless the general
5 contractor or his or her representative has been notified in writing by
6 the department of labor and industries that the contractor has become
7 unregistered.

8 (4) All misdemeanor actions under this chapter shall be prosecuted
9 in the county where the infraction occurs.

10 (5) A person is guilty of a separate misdemeanor for each day
11 worked if, after the person receives a citation from the department,
12 the person works while unregistered, or while his or her registration
13 is suspended or revoked, or works under a registration issued to
14 another contractor. A person is guilty of a separate misdemeanor for
15 each worksite on which he or she violates subsection (2) of this
16 section. Nothing in this subsection applies to a registered
17 contractor.

18 (6) The director by rule shall establish a two-year audit and
19 monitoring program for a contractor not registered under this chapter
20 who becomes registered after receiving an infraction or conviction
21 under this chapter as an unregistered contractor. The director shall
22 notify the departments of revenue and employment security of the
23 infractions or convictions and shall cooperate with these departments
24 to determine whether any taxes or registration, license, or other fees
25 or penalties are owed the state.

26 **Sec. 2.** RCW 18.27.030 and 2001 c 159 s 2 are each amended to read
27 as follows:

28 (1) An applicant for registration as a contractor shall submit an
29 application under oath upon a form to be prescribed by the director and
30 which shall include the following information pertaining to the
31 applicant:

32 (a) Employer social security number.

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

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

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

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

5 (iii) For applicants domiciled in a state or province of Canada
6 subject to an agreement entered into under RCW 51.12.120(7), as
7 permitted by the agreement, filing a certificate of coverage issued by
8 the agency that administers the workers' compensation law in the
9 applicant's state or province of domicile certifying that the applicant
10 has secured the payment of compensation under the other state's or
11 province's workers' compensation law.

12 (d) Employment security department number.

13 (e) State excise tax registration number.

14 (f) Unified business identifier (UBI) account number may be
15 substituted for the information required by (c) of this subsection if
16 the applicant will not employ employees in Washington, and by (d) and
17 (e) of this subsection.

18 (g) Type of contracting activity, whether a general or a specialty
19 contractor and if the latter, the type of specialty.

20 (h) The name and address of each partner if the applicant is a firm
21 or partnership, or the name and address of the owner if the applicant
22 is an individual proprietorship, or the name and address of the
23 corporate officers and statutory agent, if any, if the applicant is a
24 corporation or the name and address of all members of other business
25 entities. The information contained in such application is a matter of
26 public record and open to public inspection.

27 (2) The department may verify the workers' compensation coverage
28 information provided by the applicant under subsection (1)(c) of this
29 section, including but not limited to information regarding the
30 coverage of an individual employee of the applicant. If coverage is
31 provided under the laws of another state, the department may notify the
32 other state that the applicant is employing employees in Washington.

33 (3)(a) The department shall deny an application for registration
34 if: (i) The applicant has been previously performing work subject to
35 this chapter as a sole proprietor, partnership, corporation, or other
36 entity and the department has notice that the applicant has an
37 unsatisfied final judgment against him or her in an action based on
38 this chapter or the applicant owes the department money for penalties

1 assessed or fees due under this chapter as a result of a final
2 judgment; (ii) the applicant was a principal or officer of a
3 partnership, corporation, or other entity that either has an
4 unsatisfied final judgment against it in an action that was incurred
5 for work performed subject to this chapter or owes the department money
6 for penalties assessed or fees due under this chapter as a result of a
7 final judgment; or (iii) the applicant does not have a valid unified
8 business identifier number, if required by the department of revenue.

9 (b) The department shall suspend an active registration if (i) the
10 department has notice that the registrant has an unsatisfied final
11 judgment against it for work within the scope of this chapter; (ii) the
12 department has notice that the registrant is a sole proprietor or a
13 principal or officer of a registered contractor that has an unsatisfied
14 final judgment against it for work within the scope of this chapter; or
15 (~~(+ii+)~~) (iii) the applicant does not maintain a valid unified business
16 identifier number, if required by the department of revenue.

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

22 **Sec. 3.** RCW 18.27.040 and 2001 c 159 s 3 are each amended to read
23 as follows:

24 (1) Each applicant shall file with the department a surety bond
25 issued by a surety insurer who meets the requirements of chapter 48.28
26 RCW in the sum of twelve thousand dollars if the applicant is a general
27 contractor and six thousand dollars if the applicant is a specialty
28 contractor. If no valid bond is already on file with the department at
29 the time the application is filed, a bond must accompany the
30 registration application. The bond shall have the state of Washington
31 named as obligee with good and sufficient surety in a form to be
32 approved by the department. The bond shall be continuous and may be
33 canceled by the surety upon the surety giving written notice to the
34 director. A cancellation or revocation of the bond or withdrawal of
35 the surety from the bond automatically suspends the registration issued
36 to the registrant until a new bond or reinstatement notice has been
37 filed and approved as provided in this section. The bond shall be

1 conditioned that the applicant will pay all persons performing labor,
2 including employee benefits, for the contractor, will pay all taxes and
3 contributions due to the state of Washington, and will pay all persons
4 furnishing labor or material or renting or supplying equipment to the
5 contractor and will pay all amounts that may be adjudged against the
6 contractor by reason of breach of contract including negligent or
7 improper work in the conduct of the contracting business. A change in
8 the name of a business or a change in the type of business entity shall
9 not impair a bond for the purposes of this section so long as one of
10 the original applicants for such bond maintains partial ownership in
11 the business covered by the bond.

12 (2) At the time of initial registration or renewal, the contractor
13 shall provide a bond or other security deposit as required by this
14 chapter and comply with all of the other provisions of this chapter
15 before the department shall issue or renew the contractor's certificate
16 of registration. Any contractor registered as of July 1, 2001, who
17 maintains that registration in accordance with this chapter is in
18 compliance with this chapter until the next renewal of the contractor's
19 certificate of registration.

20 (3) Any person, firm, or corporation having a claim against the
21 contractor for any of the items referred to in this section may bring
22 suit upon the bond or deposit in the superior court of the county in
23 which the work was done or of any county in which jurisdiction of the
24 contractor may be had. The surety issuing the bond shall be named as
25 a party to any suit upon the bond. Action upon the bond or deposit
26 brought by a residential homeowner for breach of contract by a party to
27 the construction contract shall be commenced by filing the summons and
28 complaint with the clerk of the appropriate superior court within two
29 years from the date the claimed contract work was substantially
30 completed or abandoned. Action upon the bond or deposit brought by any
31 other authorized party shall be commenced by filing the summons and
32 complaint with the clerk of the appropriate superior court within one
33 year from the date the claimed labor was performed and benefits
34 accrued, taxes and contributions owing the state of Washington became
35 due, materials and equipment were furnished, or the claimed contract
36 work was substantially completed or abandoned. Service of process in
37 an action against the contractor, the contractor's bond, or the deposit
38 shall be exclusively by service upon the department. Three copies of

1 the summons and complaint and a fee adopted by rule of not less than
2 twenty dollars to cover the costs shall be served by registered or
3 certified mail, or other delivery service requiring notice of receipt,
4 upon the department at the time suit is started and the department
5 shall maintain a record, available for public inspection, of all suits
6 so commenced. Service is not complete until the department receives
7 the fee and three copies of the summons and complaint. The service
8 shall constitute service on the registrant and the surety for suit upon
9 the bond or deposit and the department shall transmit the summons and
10 complaint or a copy thereof to the registrant at the address listed in
11 the registrant's application and to the surety within two days after it
12 shall have been received.

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

26 (a) Employee labor and claims of laborers, including employee
27 benefits;

28 (b) Claims for breach of contract by a party to the construction
29 contract;

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

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

32 (e) Any court costs, interest, and (~~attorney's~~ [attorneys'])
33 attorneys' fees plaintiff may be entitled to recover. The surety is
34 not liable for any amount in excess of the penal limit of its bond.

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

37 (5) The total amount paid from a bond or deposit required of a
38 general contractor by this section to claimants other than residential

1 homeowners must not exceed one-half of the bond amount. The total
2 amount paid from a bond or deposit required of a specialty contractor
3 by this section to claimants other than residential homeowners must not
4 exceed one-half of the bond amount or four thousand dollars, whichever
5 is greater.

6 (6) The prevailing party in an action filed under this section
7 against the contractor and contractor's bond or deposit, for breach of
8 contract by a party to a construction contract, is entitled to costs,
9 interest, and reasonable attorneys' fees. The surety upon the bond is
10 not liable in an aggregate amount in excess of the amount named in the
11 bond nor for any monetary penalty assessed pursuant to this chapter for
12 an infraction.

13 (7) If a final judgment impairs the liability of the surety upon
14 the bond so furnished that there is not in effect a bond in the full
15 amount prescribed in this section, the registration of the contractor
16 is automatically suspended until the bond liability in the required
17 amount unimpaired by unsatisfied judgment claims is furnished.

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

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

33 (10) The director may require an applicant applying to renew or
34 reinstate a registration or applying for a new registration to file a
35 bond of up to three times the normally required amount, if the director
36 determines that an applicant, or a previous registration of a corporate
37 officer, owner, or partner of a current applicant, has had in the past

1 five years a total of (~~six~~) three final judgments in actions under
2 this chapter involving a residential single-family dwelling on two or
3 more different structures.

4 (11) The director may adopt rules necessary for the proper
5 administration of the security.

6 **Sec. 4.** RCW 18.27.200 and 2002 c 82 s 6 are each amended to read
7 as follows:

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

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

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

15 (c) Transfer a valid registration to an unregistered contractor or
16 allow an unregistered contractor to work under a registration issued to
17 another contractor; (~~or~~)

18 (d) If the contractor is a contractor as defined in RCW 18.106.010,
19 violate RCW 18.106.320; or

20 (e) Subcontract to, or employ, an unregistered contractor.

21 (2) It is not a violation of this chapter for a general contractor
22 to employ an unregistered contractor who was registered at the time he
23 or she entered into a contract with the general contractor, unless the
24 general contractor or his or her representative has been notified in
25 writing by the department of labor and industries that the contractor
26 has become unregistered.

27 (~~(+2)~~) (3) Each day that a contractor works without being
28 registered as required by this chapter, works while the contractor's
29 registration is suspended or revoked, or works under a registration
30 issued to another contractor is a separate infraction. Each worksite
31 at which a contractor works without being registered as required by
32 this chapter, works while the contractor's registration is suspended or
33 revoked, or works under a registration issued to another contractor is
34 a separate infraction.

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