

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1843

Chapter 436, Laws of 2007

60th Legislature
2007 Regular Session

CONSTRUCTION CONTRACTORS

EFFECTIVE DATE: 07/22/07

Passed by the House March 12, 2007
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 11, 2007
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved May 11, 2007, 11:07 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1843** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 11, 2007

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1843

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Chandler and Moeller; by request of Department of Labor & Industries)

READ FIRST TIME 2/28/07.

1 AN ACT Relating to the regulation of construction contractors;
2 amending RCW 18.27.010, 18.27.020, 18.27.030, 18.27.040, 18.27.080,
3 18.27.090, 18.27.104, 18.27.114, 18.27.200, 18.27.210, 18.27.230,
4 18.27.240, 18.27.250, 18.27.270, 18.27.290, and 18.27.310; adding a new
5 section to chapter 18.27 RCW; and prescribing penalties.

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

7 **Sec. 1.** RCW 18.27.010 and 2001 c 159 s 1 are each amended to read
8 as follows:

9 (~~Unless the context clearly requires otherwise,~~) The definitions
10 in this section apply throughout this chapter unless the context
11 clearly requires otherwise.

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

1 covering, the erection of scaffolding or other structures or works in
2 connection therewith (~~(or who installs or repairs)~~), the installation
3 or repair of roofing or siding, performing tree removal services, or
4 cabinet or similar installation; or, who, to do similar work upon his
5 or her own property, employs members of more than one trade upon a
6 single job or project or under a single building permit except as
7 otherwise provided (~~(herein)~~) in this chapter. "Contractor" also
8 includes a consultant acting as a general contractor. "Contractor"
9 also includes any person, firm, corporation, or other entity covered by
10 this subsection, whether or not registered as required under this
11 chapter or who are otherwise required to be registered or licensed by
12 law, who offer to sell their property without occupying or using the
13 structures, projects, developments, or improvements for more than one
14 year from the date the structure, project, development, or improvement
15 was substantially completed or abandoned.

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

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

19 (4) "Filing" means delivery of a document that is required to be
20 filed with an agency to a place designated by the agency.

21 (5) "General contractor" means a contractor whose business
22 operations require the use of more than (~~(two unrelated)~~) one building
23 (~~(trades or crafts whose work the contractor shall superintend or do in~~
24 ~~whole or in part. "General contractor" shall not include an individual~~
25 ~~who does all work personally without employees or other "specialty~~
26 ~~contractors" as defined in this section. The terms "general~~
27 ~~contractor" and "builder" are synonymous)) trade or craft upon a single
28 job or project or under a single building permit. A general contractor
29 also includes one who superintends, or consults on, in whole or in
30 part, work falling within the definition of a contractor.~~

31 (~~(+5)~~) (6) "Notice of infraction" means a form used by the
32 department to notify contractors that an infraction under this chapter
33 has been filed against them.

34 (7) "Partnership" means a business formed under Title 25 RCW.

35 (~~(+6)~~) (8) "Registration cancellation" means a written notice from
36 the department that a contractor's action is in violation of this
37 chapter and that the contractor's registration has been revoked.

1 ~~((7))~~ (9) "Registration suspension" means either an automatic
2 suspension as provided in this chapter, or a written notice from the
3 department that a contractor's action is a violation of this chapter
4 and that the contractor's registration has been suspended for a
5 specified time, or until the contractor shows evidence of compliance
6 with this chapter.

7 ~~((8))~~ (10) "Residential homeowner" means an individual person or
8 persons owning or leasing real property:

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

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

15 ~~((9))~~ (11) "Service," except as otherwise provided in RCW
16 18.27.225 and 18.27.370, means posting in the United States mail,
17 properly addressed, postage prepaid, return receipt requested, or
18 personal service. Service by mail is complete upon deposit in the
19 United States mail to the last known address provided to the
20 department.

21 (12) "Specialty contractor" means a contractor whose operations do
22 not fall within the definition of "general contractor". A specialty
23 contractor may only subcontract work that is incidental to the
24 specialty contractor's work.

25 ~~((10))~~ (13) "Substantial completion" means the same as
26 "substantial completion of construction" in RCW 4.16.310.

27 (14) "Unregistered contractor" means a person, firm, corporation,
28 or other entity doing work as a contractor without being registered in
29 compliance with this chapter. "Unregistered contractor" includes
30 contractors whose registration is expired, revoked, or suspended.
31 "Unregistered contractor" does not include a contractor who has
32 maintained a valid bond and the insurance or assigned account required
33 by RCW 18.27.050, and whose registration has lapsed for thirty or fewer
34 days.

35 ~~((11))~~ (15) "Unsatisfied final judgment" means a judgment or
36 final tax warrant that has not been satisfied either through payment,
37 court approved settlement, discharge in bankruptcy, or assignment under
38 RCW 19.72.070.

1 (~~(12)~~) (16) "Verification" means the receipt and duplication by
2 the city, town, or county of a contractor registration card that is
3 current on its face, checking the department's contractor registration
4 data base, or calling the department to confirm that the contractor is
5 registered.

6 **Sec. 2.** RCW 18.27.020 and 1997 c 314 s 3 are each amended to read
7 as follows:

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

9 (2) It is a gross misdemeanor for any 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) Use a false or expired registration number in purchasing or
16 offering to purchase an advertisement for which a contractor
17 registration number is required; (~~(or)~~)

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

21 (e) Subcontract to or use an unregistered contractor.

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

28 (4) All gross misdemeanor actions under this chapter shall be
29 prosecuted in the county where the infraction occurs.

30 (5) A person is guilty of a separate gross misdemeanor for each day
31 worked if, after the person receives a citation from the department,
32 the person works while unregistered, or while his or her registration
33 is suspended or revoked, or works under a registration issued to
34 another contractor. A person is guilty of a separate gross misdemeanor
35 for each worksite on which he or she violates subsection (2) of this
36 section. Nothing in this subsection applies to a registered
37 contractor.

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

9 **Sec. 3.** RCW 18.27.030 and 2001 c 159 s 2 are each amended to read
10 as follows:

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

15 (a) Employer social security number.

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

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

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

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

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

31 (d) Employment security department number.

32 (e) State excise tax registration number.

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

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

3 (h) 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 or the name and address of all members of other business
8 entities. The information contained in such application is a matter of
9 public record and open to public inspection.

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

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

31 (b) The department shall suspend an active registration if (i) the
32 department has determined that the registrant has an unsatisfied final
33 judgment against it for work within the scope of this chapter; (ii) the
34 department has ((notice)) determined that the registrant is a sole
35 proprietor or ((a)) an owner, principal, or officer of a registered
36 contractor that has an unsatisfied final judgment against it for work
37 within the scope of this chapter; or ((+ii+)) (iii) the ((applicant))

1 registrant does not maintain a valid unified business identifier
2 number, if required by the department of revenue.

3 (c) The department may suspend an active registration if the
4 department has determined that an owner, principal, partner, or officer
5 of the registrant was an owner, principal, or officer of a previous
6 partnership, corporation, or other entity that has an unsatisfied final
7 judgment against it.

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

13 **Sec. 4.** RCW 18.27.040 and 2001 c 159 s 3 are each amended to read
14 as follows:

15 (1) Each applicant shall file with the department a surety bond
16 issued by a surety insurer who meets the requirements of chapter 48.28
17 RCW in the sum of twelve thousand dollars if the applicant is a general
18 contractor and six thousand dollars if the applicant is a specialty
19 contractor. If no valid bond is already on file with the department at
20 the time the application is filed, a bond must accompany the
21 registration application. The bond shall have the state of Washington
22 named as obligee with good and sufficient surety in a form to be
23 approved by the department. The bond shall be continuous and may be
24 canceled by the surety upon the surety giving written notice to the
25 director. A cancellation or revocation of the bond or withdrawal of
26 the surety from the bond automatically suspends the registration issued
27 to the ((registrant)) contractor until a new bond or reinstatement
28 notice has been filed and approved as provided in this section. The
29 bond shall be conditioned that the applicant will pay all persons
30 performing labor, including employee benefits, for the contractor, will
31 pay all taxes and contributions due to the state of Washington, and
32 will pay all persons furnishing ((labor or)) material or renting or
33 supplying equipment to the contractor and will pay all amounts that may
34 be adjudged against the contractor by reason of breach of contract
35 including ((negligent or)) improper work in the conduct of the
36 contracting business. A change in the name of a business or a change

1 in the type of business entity shall not impair a bond for the purposes
2 of this section so long as one of the original applicants for such bond
3 maintains partial ownership in the business covered by the bond.

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

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

1 the department receives the fee and three copies of the summons and
2 complaint. The service shall constitute service and confer personal
3 jurisdiction on the ((~~registrant~~)) contractor and the surety for suit
4 ((~~upon the~~)) on claimant's claim against the contractor and the bond or
5 deposit and the department shall transmit the summons and complaint or
6 a copy thereof to the ((~~registrant~~)) contractor at the address listed
7 in the ((~~registrant's~~)) contractor's application and to the surety
8 within two days after it shall have been received.

9 (4) The surety upon the bond shall not be liable in an aggregate
10 amount in excess of the amount named in the bond nor for any monetary
11 penalty assessed pursuant to this chapter for an infraction. The
12 liability of the surety shall not cumulate where the bond has been
13 renewed, continued, reinstated, reissued or otherwise extended. The
14 surety upon the bond may, upon notice to the department and the
15 parties, tender to the clerk of the court having jurisdiction of the
16 action an amount equal to the claims thereunder or the amount of the
17 bond less the amount of judgments, if any, previously satisfied
18 therefrom and to the extent of such tender the surety upon the bond
19 shall be exonerated but if the actions commenced and pending and
20 provided to the department as required in subsection (3) of this
21 section, at any one time exceed the amount of the bond then unimpaired,
22 claims shall be satisfied from the bond in the following order:

23 (a) Employee labor and claims of laborers, including employee
24 benefits;

25 (b) Claims for breach of contract by a party to the construction
26 contract;

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

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

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

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

34 (5) The total amount paid from a bond or deposit required of a
35 general contractor by this section to claimants other than residential
36 homeowners must not exceed one-half of the bond amount. The total
37 amount paid from a bond or deposit required of a specialty contractor

1 by this section to claimants other than residential homeowners must not
2 exceed one-half of the bond amount or four thousand dollars, whichever
3 is greater.

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

12 (7) If a final judgment impairs the liability of the surety upon
13 the bond or deposit so furnished that there is not in effect a bond or
14 deposit in the full amount prescribed in this section, the registration
15 of the contractor is automatically suspended until the bond or deposit
16 liability in the required amount unimpaired by unsatisfied judgment
17 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~~
20 ~~or other security acceptable to~~) an assigned savings account, upon
21 forms provided by the department.

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

34 (10) Within ten days after resolution of the case, a certified copy
35 of the final judgment and order, or any settlement documents where a
36 case is not disposed of by a court trial, a certified copy of the
37 dispositive settlement documents must be provided to the department by
38 the prevailing party. Failure to provide a copy of the final judgment

1 and order or the dispositive settlement documents to the department
2 within ten days of entry of such an order constitutes a violation of
3 this chapter and a penalty adopted by rule of not less than two hundred
4 fifty dollars may be assessed against the prevailing party.

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

13 (~~(11)~~) (12) The director may adopt rules necessary for the proper
14 administration of the security.

15 **Sec. 5.** RCW 18.27.080 and 1988 c 285 s 2 are each amended to read
16 as follows:

17 No person engaged in the business or acting in the capacity of a
18 contractor may bring or maintain any action in any court of this state
19 for the collection of compensation for the performance of any work or
20 for breach of any contract for which registration is required under
21 this chapter without alleging and proving that he was a duly registered
22 contractor and held a current and valid certificate of registration at
23 the time he contracted for the performance of such work or entered into
24 such contract. For the purposes of this section, the court shall not
25 find a contractor in substantial compliance with the registration
26 requirements of this chapter unless: (1) The department has on file
27 the information required by RCW 18.27.030; (2) the contractor has at
28 all times had in force a current bond or other security as required by
29 RCW 18.27.040; and (3) the contractor has at all times had in force
30 current insurance as required by RCW 18.27.050. In determining under
31 this section whether a contractor is in substantial compliance with the
32 registration requirements of this chapter, the court shall take into
33 consideration the length of time during which the contractor did not
34 hold a valid certificate of registration.

35 **Sec. 6.** RCW 18.27.090 and 2003 c 399 s 401 are each amended to
36 read as follows:

1 The registration provisions of this chapter do not apply to:

2 (1) An authorized representative of the United States government,
3 the state of Washington, or any incorporated city, town, county,
4 township, irrigation district, reclamation district, or other municipal
5 or political corporation or subdivision of this state;

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

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

11 (4) Any construction, repair, or operation incidental to the
12 discovering or producing of petroleum or gas, or the drilling, testing,
13 abandoning, or other operation of any petroleum or gas well or any
14 surface or underground mine or mineral deposit when performed by an
15 owner or lessee;

16 (5) The sale (~~or installation~~) of any finished products,
17 materials, or articles of merchandise that are not (~~actually~~)
18 fabricated into and do not become a (~~permanent-fixed~~) part of a
19 structure under the common law of fixtures;

20 (6) Any construction, alteration, improvement, or repair of
21 personal property performed by the registered or legal owner, or by a
22 mobile/manufactured home retail dealer or manufacturer licensed under
23 chapter 46.70 RCW who shall warranty service and repairs under chapter
24 46.70 RCW;

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

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

31 (9) Any work or operation on one undertaking or project by one or
32 more contracts, the aggregate contract price of which for labor and
33 materials and all other items is less than five hundred dollars, such
34 work or operations being considered as of a casual, minor, or
35 inconsequential nature. The exemption prescribed in this subsection
36 does not apply in any instance wherein the work or construction is only
37 a part of a larger or major operation, whether undertaken by the same
38 or a different contractor, or in which a division of the operation is

1 made into contracts of amounts less than five hundred dollars for the
2 purpose of evasion of this chapter or otherwise. The exemption
3 prescribed in this subsection does not apply to a person who advertises
4 or puts out any sign or card or other device which might indicate to
5 the public that he or she is a contractor, or that he or she is
6 qualified to engage in the business of contractor;

7 (10) Any construction or operation incidental to the construction
8 and repair of irrigation and drainage ditches of regularly constituted
9 irrigation districts or reclamation districts; or to farming, dairying,
10 agriculture, viticulture, horticulture, or stock or poultry raising; or
11 to clearing or other work upon land in rural districts for fire
12 prevention purposes; except when any of the above work is performed by
13 a registered contractor;

14 (11) An owner who contracts for a project with a registered
15 contractor, except that this exemption shall not deprive the owner of
16 the protections of this chapter against registered and unregistered
17 contractors. The exemption prescribed in this subsection does not
18 apply to a person who performs the activities of a contractor for the
19 purpose of leasing or selling improved property he or she has owned for
20 less than twelve months;

21 (12) Any person working on his or her own property, whether
22 occupied by him or her or not, and any person working on his or her
23 personal residence, whether owned by him or her or not but this
24 exemption shall not apply to any person (~~otherwise covered by this~~
25 ~~chapter who constructs an improvement~~) who performs the activities of
26 a contractor on his or her own property (~~with the intention and~~) for
27 the purpose of selling, demolishing, or leasing the (~~improved~~)
28 property;

29 (~~Owners of commercial properties who use their own employees~~
30 ~~to do~~) An owner who performs maintenance, repair, and alteration work
31 in or upon (~~their~~) his or her own properties, or who uses his or her
32 own employees to do such work;

33 (14) A licensed architect or civil or professional engineer acting
34 solely in his or her professional capacity, an electrician (~~licensed~~)
35 certified under the laws of the state of Washington, or a plumber
36 (~~licensed~~) certified under the laws of the state of Washington or
37 licensed by a political subdivision of the state of Washington while
38 operating within the boundaries of such political subdivision. The

1 exemption provided in this subsection is applicable only when the
2 ((licensee)) person certified is operating within the scope of his or
3 her ((license)) certification;

4 (15) Any person who engages in the activities herein regulated as
5 an employee of a registered contractor with wages as his or her sole
6 compensation or as an employee with wages as his or her sole
7 compensation;

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

11 (17) A mobile/manufactured home dealer or manufacturer who
12 subcontracts the installation, set-up, or repair work to actively
13 registered contractors. This exemption only applies to the
14 installation, set-up, or repair of the mobile/manufactured homes that
15 were manufactured or sold by the mobile/manufactured home dealer or
16 manufacturer;

17 (18) An entity who holds a valid electrical contractor's license
18 under chapter 19.28 RCW that employs a certified journeyman
19 electrician, a certified residential specialty electrician, or an
20 electrical trainee meeting the requirements of chapter 19.28 RCW to
21 perform plumbing work that is incidentally, directly, and immediately
22 appropriate to the like-in-kind replacement of a household appliance or
23 other small household utilization equipment that requires limited
24 electric power and limited waste and/or water connections. An
25 electrical trainee must be supervised by a certified electrician while
26 performing plumbing work.

27 **Sec. 7.** RCW 18.27.104 and 1997 c 314 s 10 are each amended to read
28 as follows:

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

1 (2) If the person to whom a citation is issued under subsection (1)
2 of this section notifies the department in writing that he or she
3 contests the citation, the department shall afford an opportunity for
4 an adjudicative proceeding under chapter 34.05 RCW (~~within thirty days~~
5 ~~after receiving the notification~~)).

6 **Sec. 8.** RCW 18.27.114 and 2001 c 159 s 9 are each amended to read
7 as follows:

8 (1) Any contractor agreeing to perform any contracting project:
9 (a) For the repair, alteration, or construction of four or fewer
10 residential units or accessory structures on such residential property
11 when the bid or contract price totals one thousand dollars or more; or
12 (b) for the repair, alteration, or construction of a commercial
13 building when the bid or contract price totals one thousand dollars or
14 more but less than sixty thousand dollars, must provide the customer
15 with the following disclosure statement in substantially the following
16 form using lower case and upper case twelve-point and bold type where
17 appropriate, prior to starting work on the project:

18 "NOTICE TO CUSTOMER

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

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

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

33 **FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR**
34 **CONTRACT.**

35 You may withhold a contractually defined percentage of your

1 construction contract as retainage for a stated period of time
2 to provide protection to you and help insure that your project
3 will be completed as required by your contract.

4 **YOUR PROPERTY MAY BE LIENED.**

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

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

12 The contractor is required to provide you with further
13 information about lien release documents if you request it.
14 General information is also available from the state Department
15 of Labor and Industries.

16 I have received a copy of this disclosure statement.

17
18 (Signature of customer)"

19 (2) The contractor must retain a signed copy of the disclosure
20 statement in his or her files for a minimum of three years, and produce
21 a signed or electronic signature copy of the disclosure statement to
22 the department upon request.

23 (3) 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)) (4) No contractor subject to this section may bring or
29 maintain any lien claim under chapter 60.04 RCW based on any contract
30 to which this section applies without alleging and proving that the
31 contractor has provided the customer with a copy of the disclosure
32 statement as required in subsection (1) of this section.

33 ((+4)) (5) This section does not apply to contracts authorized
34 under chapter 39.04 RCW or to contractors contracting with other
35 contractors.

1 ~~((5))~~ (6) Failure to comply with this section shall constitute an
2 infraction under the provisions of this chapter.

3 ~~((6))~~ (7) The department shall produce model disclosure
4 statements, and public service announcements detailing the information
5 needed to assist contractors and contractors' customers to comply under
6 this section. As necessary, the department shall periodically update
7 these education materials.

8 **Sec. 9.** RCW 18.27.200 and 2002 c 82 s 6 are each amended to read
9 as follows:

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

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

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

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

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

22 (e) Subcontract to, or use, an unregistered contractor.

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

31 **Sec. 10.** RCW 18.27.210 and 1993 c 454 s 8 are each amended to read
32 as follows:

33 (1) The director shall appoint compliance inspectors to investigate
34 alleged or apparent violations of this chapter.

35 (a) The director, or authorized compliance inspector, upon
36 presentation of appropriate credentials, may inspect and investigate

1 job sites at which a contractor had bid or presently is working to
2 determine whether the contractor is registered in accordance with this
3 chapter or the rules adopted under this chapter or whether there is a
4 violation of ((RCW 18.27.200)) this chapter.

5 (b) Upon request of the compliance inspector of the department, a
6 contractor or an employee of the contractor shall provide information
7 identifying the contractor.

8 (c) The director or the director's authorized representative may
9 apply to a court of competent jurisdiction for a search warrant
10 authorizing access to any job site at which a contractor is presently
11 working. The court may, upon such an application, issue a search
12 warrant for the purpose requested. The costs for obtaining the search
13 warrant must be added to the penalty for a violation of this chapter if
14 such a violation becomes final.

15 (2) If the employee of an unregistered contractor is cited by a
16 compliance inspector, that employee is cited as the agent of the
17 employer-contractor, and issuance of the infraction to the employee is
18 notice to the employer-contractor that the contractor is in violation
19 of this chapter. An employee who is cited by a compliance inspector
20 shall not be liable for any of the alleged violations contained in the
21 citation unless the employee is also the contractor.

22 NEW SECTION. Sec. 11. A new section is added to chapter 18.27 RCW
23 to read as follows:

24 If he or she has reason to believe there has been a violation of
25 this chapter, the director and the director's authorized
26 representatives may issue subpoenas to enforce the production and
27 examination of any of the following, whether written or electronic: A
28 listing of the contractors working on the property; contracts between
29 the contractor and any suppliers or subcontractors; and any other
30 information necessary to enforce this chapter. The subpoena may be
31 issued only if a contractor fails to provide the above information when
32 requested by the department. The superior court has the power to
33 enforce such a subpoena by proper proceedings. This section applies to
34 registered and unregistered contractors.

35 **Sec. 12.** RCW 18.27.230 and 1997 c 314 s 15 are each amended to
36 read as follows:

1 The department may issue a notice of infraction if the department
2 reasonably believes that the contractor has committed an infraction
3 under this chapter. A notice of infraction issued under this section
4 shall be personally served on the contractor named in the notice by the
5 department's compliance inspectors or service can be made by certified
6 mail directed to the contractor named in the notice of infraction at
7 the contractor's last known address of record. If the contractor named
8 in the notice of infraction is a firm or corporation, the notice may be
9 personally served on any employee of the firm or corporation. If a
10 notice of infraction is personally served upon an employee of a firm or
11 corporation, the department shall (~~within four days of service~~) send
12 a copy of the notice by (~~certified~~) mail, return receipt requested,
13 to the contractor if the department is able to obtain the contractor's
14 address.

15 **Sec. 13.** RCW 18.27.240 and 2006 c 270 s 8 are each amended to read
16 as follows:

17 The form of the notice of infraction issued under this chapter
18 shall include the following:

19 (1) A statement that the notice represents a determination that the
20 infraction has been committed by the contractor named in the notice and
21 that the determination shall be final unless contested as provided in
22 this chapter;

23 (2) A statement that the infraction is a noncriminal offense for
24 which imprisonment shall not be imposed as a sanction;

25 (3) A statement of the (~~specific~~) violation which necessitated
26 issuance of the infraction;

27 (4) A statement of penalty involved if the infraction is
28 established;

29 (5) A statement of the options provided in this chapter for
30 responding to the notice and the procedures necessary to exercise these
31 options;

32 (6) A statement that at any hearing to contest the notice of
33 infraction the state has the burden of proving, by a preponderance of
34 the evidence, that the infraction was committed; and that the
35 contractor may subpoena witnesses, including the compliance inspector
36 of the department who issued and served the notice of infraction;

1 (7) A statement that at any hearing to contest the notice of
2 infraction against an unregistered contractor, the unregistered
3 contractor has the burden of proving that the infraction did not occur;

4 (8) A statement that the contractor must respond to the notice of
5 infraction in one of the ways provided in this chapter; and

6 ~~((+8))~~ (9) A statement that a contractor's failure to timely
7 select one of the options for responding to the notice of infraction
8 after receiving a statement of the options provided in this chapter for
9 responding to the notice of infraction and the procedures necessary to
10 exercise these options is guilty of a gross misdemeanor and may be
11 punished by a fine or imprisonment in jail.

12 **Sec. 14.** RCW 18.27.250 and 1986 c 197 s 5 are each amended to read
13 as follows:

14 A violation designated as an infraction under this chapter shall be
15 heard and determined by an administrative law judge of the office of
16 administrative hearings. If a party desires to contest the notice of
17 infraction, the party shall file a notice of appeal with the
18 department~~((7))~~ specifying the grounds of the appeal within twenty days
19 ~~((of issuance of the infraction))~~ of service of the infraction in a
20 manner provided by this chapter. The appeal must be accompanied by a
21 certified check for two hundred dollars, which shall be returned to the
22 assessed party if the decision of the department is not sustained
23 following the final decision in the appeal. If the final decision
24 sustains the decision of the department, the department must apply the
25 two hundred dollars to the payment of the expenses of the appeal,
26 including costs charged by the office of administrative hearings. The
27 administrative law judge shall conduct hearings in these cases at
28 locations in the county where the infraction occurred.

29 **Sec. 15.** RCW 18.27.270 and 2000 c 171 s 9 are each amended to read
30 as follows:

31 (1) A contractor who is issued a notice of infraction shall respond
32 within twenty days of the date of issuance of the notice of infraction.

33 (2) If the contractor named in the notice of infraction does not
34 elect to contest the notice of infraction, then the contractor shall
35 pay to the department, by check or money order, the amount of the
36 penalty prescribed for the infraction. When a response which does not

1 contest the notice of infraction is received by the department with the
2 appropriate penalty, the department shall make the appropriate entry in
3 its records.

4 (3) If the contractor named in the notice of infraction elects to
5 contest the notice of infraction, the contractor shall respond by
6 filing an ~~((answer of protest with the department specifying the
7 grounds of protest))~~ appeal to the department in the manner specified
8 in RCW 18.27.250.

9 (4) If any contractor issued a notice of infraction fails to
10 respond within the prescribed response period, the contractor shall be
11 guilty of a misdemeanor and prosecuted in the county where the
12 infraction occurred.

13 (5) After final determination by an administrative law judge that
14 an infraction has been committed, a contractor who fails to pay a
15 monetary penalty within thirty days, that is not waived pursuant to RCW
16 18.27.340(2), and who fails to file an appeal pursuant to RCW
17 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the
18 county where the infraction occurred.

19 (6) A contractor who fails to pay a monetary penalty within thirty
20 days after exhausting appellate remedies pursuant to RCW 18.27.310(4),
21 shall be guilty of a misdemeanor and be prosecuted in the county where
22 the infraction occurred.

23 (7) If a contractor who is issued a notice of infraction is a
24 contractor who has failed to register as a contractor under this
25 chapter, the contractor is subject to a monetary penalty per infraction
26 as provided in the schedule of penalties established by the department,
27 and each day the person works without becoming registered is a separate
28 infraction.

29 **Sec. 16.** RCW 18.27.290 and 1983 1st ex.s. c 2 s 11 are each
30 amended to read as follows:

31 It is a gross misdemeanor for a contractor who has been personally
32 served with a notice of infraction to willfully ~~((violate the written
33 promise))~~ fail to respond to a notice of infraction as provided in this
34 chapter, regardless of the ultimate disposition of the infraction.

35 **Sec. 17.** RCW 18.27.310 and 2001 c 159 s 10 are each amended to
36 read as follows:

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

3 (2) The burden of proof is on the department to establish the
4 commission of the infraction by a preponderance of the evidence, unless
5 the infraction is issued against an unregistered contractor in which
6 case the burden of proof is on the contractor. The notice of
7 infraction shall be dismissed if the ((defendant)) appellant
8 establishes that, at the time the advertising occurred, offer or bid
9 was made, or work was performed, the ((defendant)) appellant was
10 registered by the department, without suspension, or was exempt from
11 registration.

12 (3) After consideration of the evidence and argument, the
13 administrative law judge shall determine whether the infraction was
14 committed. If it has not been established that the infraction was
15 committed, an order dismissing the notice shall be entered in the
16 record of the proceedings. If it has been established that the
17 infraction was committed, the administrative law judge shall issue
18 findings of fact and conclusions of law in its decision and order
19 determining whether the infraction was committed.

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

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