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ENGROSSED HOUSE BILL 2231

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State of Washington                      52nd Legislature    1991 1st Special Session

By Representatives Zellinsky, Broback, Schmidt, Dellwo, Sheldon, R. Meyers, Scott, Paris, Winsley and Kremen.

Read first time June 21, 1991. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to the surety bond required from fire protection  
2 sprinkler system contractors; adding a new section to chapter 18.160  
3 RCW; repealing RCW 18.160.060; and declaring an emergency.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 18.160 RCW  
6 to read as follows:

7            (1) Before granting a license under this chapter, the director of  
8 fire protection shall require that the applicant file with the state  
9 director of fire protection a surety bond issued by a surety insurer  
10 who meets the requirements of chapter 48.28 RCW in a form acceptable to  
11 the director of fire protection running to the state of Washington in  
12 the penal sum of ten thousand dollars. However, the surety bond for a  
13 fire protection sprinkler system contractor whose business is  
14 restricted solely to NFPA 13-D or NFPA 13-R systems shall be in the  
15 penal sum of six thousand dollars. The bond shall be conditioned that

1 the applicant will pay all purchasers of fire protection sprinkler  
2 systems with whom the applicant has a contract for the applicant to  
3 install, inspect, maintain, or service a fire protection sprinkler  
4 system, and who have obtained a judgment against the applicant for the  
5 breach of such a contract. The term "purchaser" means an owner of  
6 property who has entered into a contract for the installation of a fire  
7 protection sprinkler system on that property, or a contractor who  
8 contracts to install, inspect, maintain, or service such a system with  
9 an owner of property and subcontracts the work to the applicant. No  
10 other person, including, but not limited to, persons who supply labor,  
11 materials, or rental equipment to the applicant, shall have any rights  
12 against the bond.

13 (2) In lieu of the surety bond required by this section the  
14 applicant may file with the director of fire protection a deposit  
15 consisting of cash or other security acceptable to the director of fire  
16 protection in an amount equal to the penal sum of the required bond.  
17 The director of fire protection may adopt rules necessary for the  
18 proper administration of the security.

19 (3) Before granting renewal of a fire protection sprinkler system  
20 contractor's license to any applicant, the director of fire protection  
21 shall require that the applicant file with the director satisfactory  
22 evidence that the surety bond or cash deposit is in full force.

23 (4) Any purchaser of a fire protection sprinkler system having a  
24 claim against the licensee for the breach of a contract for the  
25 licensee to install, inspect, maintain, or service a fire protection  
26 sprinkler system may bring suit upon such bond in superior court of the  
27 county in which the work was done or of any county in which  
28 jurisdiction of the licensee may be had. Any such action must be  
29 brought not later than one year after the expiration of the licensee's

1 license or renewal license then in effect at the time of the alleged  
2 breach of contract.

3 (5) The bond shall be considered one continuous obligation, and the  
4 surety upon the bond shall not be liable in aggregate or cumulative  
5 amount exceeding ten thousand dollars, or six thousand dollars if the  
6 bond was issued to a licensee whose business is restricted solely to  
7 NFPA 13-D or NFPA 13-R systems, regardless of the number of years the  
8 bond is in effect, or whether it is reinstated, renewed, reissued, or  
9 otherwise continued, and regardless of the year in which any claim  
10 accrued. The bond shall not be liable for any liability of the  
11 licensee for tortious acts, whether or not such liability is imposed by  
12 statute or common law, or is imposed by contract. The bond shall not  
13 be a substitute or supplemental to any liability or other insurance  
14 required by law or by the contract.

15 (6) If the surety desires to make payment without awaiting court  
16 action against it, the amount of the bond shall be reduced to the  
17 extent of any payment made by the surety in good faith under the bond.  
18 Any payment shall be based on final judgments received by the surety.

19 (7) Claims against the bond shall be satisfied from the bond in the  
20 following order:

21 (a) Claims by a purchaser of a fire protection sprinkler system for  
22 the breach of a contract for the licensee to install, inspect,  
23 maintain, or service a fire protection sprinkler system;

24 (b) Any court costs, interest, and attorneys' fees the plaintiff  
25 may be entitled to recover by contract, statute, or court rule.

26 A condition precedent to the surety being liable to any claimant is a  
27 final judgment against the licensee, unless the surety desires to make  
28 payment without awaiting court action. In the event of a dispute  
29 regarding the apportionment of the bond proceeds among claimants, the

1 surety may bring an action for interpleader against all claimants upon  
2 the bond.

3 (8) Any purchaser of a fire protection sprinkler system having an  
4 unsatisfied final judgment against the licensee for the breach of a  
5 contract for the licensee to install, inspect, maintain, or service a  
6 fire protection sprinkler system may execute upon the security held by  
7 the director of fire protection by serving a certified copy of the  
8 unsatisfied final judgment by registered or certified mail upon the  
9 director within one year of the date of entry of such judgment. Upon  
10 the receipt of service of such certified copy the director shall pay or  
11 order paid from the deposit, through the registry of the court which  
12 rendered judgment, towards the amount of the unsatisfied judgment. The  
13 priority of payment by the director shall be the order of receipt by  
14 the director, but the director shall have no liability for payment in  
15 excess of the amount of the deposit.

16 NEW SECTION. **Sec. 2.** RCW 18.160.060 and 1990 c 177 s 7 are  
17 each repealed.

18 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and shall take  
21 effect immediately.